



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

| | | |
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Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

| | |
|-----------------------------------|-------|
| July 1, 2004, to June 30, 2005 | \$320 |
| October 1, 2004, to June 30, 2005 | \$240 |
| January 1, 2005, to June 30, 2005 | \$160 |
| April 1, 2005, to June 30, 2005 | \$ 80 |

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All checks should be made payable to the Treasurer, State of Iowa. Send all inquiries and subscription orders to:

Attn: Stephanie Cox
Legislative Services Agency
Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

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The Iowa Administrative Code shall be cited as (agency identification number) IAC
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| | |
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| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1(249A) | (Rule) |
| 441 IAC 79.1(1) | (Subrule) |
| 441 IAC 79.1(1)“a” | (Paragraph) |
| 441 IAC 79.1(1)“a”(1) | (Subparagraph) |

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication
date), (page number), (ARC number).

Schedule for Rule Making 2004

| NOTICE SUBMISSION DEADLINE | NOTICE PUB. DATE | HEARING OR COMMENTS 20 DAYS | FIRST POSSIBLE ADOPTION DATE 35 DAYS | ADOPTED FILING DEADLINE | ADOPTED PUB. DATE | FIRST POSSIBLE EFFECTIVE DATE | POSSIBLE EXPIRATION OF NOTICE 180 DAYS |
|----------------------------------|------------------------|--------------------------------------|--|-------------------------------|-------------------------|--|---|
| Jan. 2 '04 | Jan. 21 '04 | Feb. 10 '04 | Feb. 25 '04 | Feb. 27 '04 | Mar. 17 '04 | Apr. 21 '04 | July 19 '04 |
| Jan. 16 | Feb. 4 | Feb. 24 | Mar. 10 | Mar. 12 | Mar. 31 | May 5 | Aug. 2 |
| Jan. 30 | Feb. 18 | Mar. 9 | Mar. 24 | Mar. 26 | Apr. 14 | May 19 | Aug. 16 |
| Feb. 13 | Mar. 3 | Mar. 23 | Apr. 7 | Apr. 9 | Apr. 28 | June 2 | Aug. 30 |
| Feb. 27 | Mar. 17 | Apr. 6 | Apr. 21 | Apr. 23 | May 12 | June 16 | Sept. 13 |
| Mar. 12 | Mar. 31 | Apr. 20 | May 5 | May 7 | May 26 | June 30 | Sept. 27 |
| Mar. 26 | Apr. 14 | May 4 | May 19 | May 21 | June 9 | July 14 | Oct. 11 |
| Apr. 9 | Apr. 28 | May 18 | June 2 | June 4 | June 23 | July 28 | Oct. 25 |
| Apr. 23 | May 12 | June 1 | June 16 | June 18 | July 7 | Aug. 11 | Nov. 8 |
| May 7 | May 26 | June 15 | June 30 | July 2 | July 21 | Aug. 25 | Nov. 22 |
| May 21 | June 9 | June 29 | July 14 | July 16 | Aug. 4 | Sept. 8 | Dec. 6 |
| June 4 | June 23 | July 13 | July 28 | July 30 | Aug. 18 | Sept. 22 | Dec. 20 |
| June 18 | July 7 | July 27 | Aug. 11 | Aug. 13 | Sept. 1 | Oct. 6 | Jan. 3 '05 |
| July 2 | July 21 | Aug. 10 | Aug. 25 | Aug. 27 | Sept. 15 | Oct. 20 | Jan. 17 '05 |
| July 16 | Aug. 4 | Aug. 24 | Sept. 8 | Sept. 10 | Sept. 29 | Nov. 3 | Jan. 31 '05 |
| July 30 | Aug. 18 | Sept. 7 | Sept. 22 | Sept. 24 | Oct. 13 | Nov. 17 | Feb. 14 '05 |
| Aug. 13 | Sept. 1 | Sept. 21 | Oct. 6 | Oct. 8 | Oct. 27 | Dec. 1 | Feb. 28 '05 |
| Aug. 27 | Sept. 15 | Oct. 5 | Oct. 20 | Oct. 22 | Nov. 10 | Dec. 15 | Mar. 14 '05 |
| Sept. 10 | Sept. 29 | Oct. 19 | Nov. 3 | Nov. 5 | Nov. 24 | Dec. 29 | Mar. 28 '05 |
| Sept. 24 | Oct. 13 | Nov. 2 | Nov. 17 | ***Nov. 17*** | Dec. 8 | Jan. 12 '05 | Apr. 11 '05 |
| Oct. 8 | Oct. 27 | Nov. 16 | Dec. 1 | Dec. 3 | Dec. 22 | Jan. 26 '05 | Apr. 25 '05 |
| Oct. 22 | Nov. 10 | Nov. 30 | Dec. 15 | ***Dec. 15*** | Jan. 5 '05 | Feb. 9 '05 | May 9 '05 |
| Nov. 5 | Nov. 24 | Dec. 14 | Dec. 29 | Dec. 31 | Jan. 19 '05 | Feb. 23 '05 | May 23 '05 |
| ***Nov. 17*** | Dec. 8 | Dec. 28 | Jan. 12 '05 | Jan. 14 '05 | Feb. 2 '05 | Mar. 9 '05 | June 6 '05 |
| Dec. 3 | Dec. 22 | Jan. 11 '05 | Jan. 26 '05 | Jan. 28 '05 | Feb. 16 '05 | Mar. 23 '05 | June 20 '05 |
| ***Dec. 15*** | Jan. 5 '05 | Jan. 25 '05 | Feb. 9 '05 | Feb. 11 '05 | Mar. 2 '05 | Apr. 6 '05 | July 4 '05 |
| Dec. 31 | Jan. 19 '05 | Feb. 8 '05 | Feb. 23 '05 | Feb. 25 '05 | Mar. 16 '05 | Apr. 20 '05 | July 18 '05 |

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|------------------------------|-------------------|
| 12 | Wednesday, November 17, 2004 | December 8, 2004 |
| 13 | Friday, December 3, 2004 | December 22, 2004 |
| 14 | Wednesday, December 15, 2004 | January 5, 2005 |

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

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2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

| AGENCY | HEARING LOCATION | DATE AND TIME OF HEARING |
|--------|------------------|--------------------------|
|--------|------------------|--------------------------|

ADMINISTRATIVE SERVICES DEPARTMENT[11]

| | | |
|--|---|---------------------------------|
| Purchase of airline tickets, 41.5(3) IAB 11/10/04 ARC 3784B | Conference Room 4, Level A Hoover State Office Bldg. Des Moines, Iowa | November 30, 2004 10:30 a.m. |
|--|---|---------------------------------|

DENTAL EXAMINERS BOARD[650]

| | | |
|---|---|-----------------------------|
| Dental hygiene examinees— completion of education or experience prior to third examination attempt, 12.4(2) IAB 11/10/04 ARC 3778B | Board Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa | November 30, 2004 2 p.m. |
|---|---|-----------------------------|

| | | |
|--|---|-----------------------------|
| Mandatory reporting, 30.4, 31.14 IAB 11/10/04 ARC 3779B (See also ARC 3777B herein) | Board Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa | January 13, 2005 10 a.m. |
|--|---|-----------------------------|

EDUCATIONAL EXAMINERS BOARD[282]

| | | |
|--|--|-----------------------------|
| Correction of cross reference, 11.37 IAB 11/10/04 ARC 3770B | Room 3 North, Third Floor Grimes State Office Bldg. Des Moines, Iowa | November 30, 2004 1 p.m. |
|--|--|-----------------------------|

| | | |
|--|--|--------------------------------|
| Driving record qualification for behind-the-wheel driving instructor authorization, 21.1(1) IAB 11/10/04 ARC 3771B | Room 3 North, Third Floor Grimes State Office Bldg. Des Moines, Iowa | November 30, 2004 1:30 p.m. |
|--|--|--------------------------------|

ELDER AFFAIRS DEPARTMENT[321]

| | | |
|--|--|--------------------------------|
| Older Iowans legislature, rescind ch 20 IAB 10/27/04 ARC 3750B (ICN Network) | Public Library 415 Commercial St. Waterloo, Iowa | November 16, 2004 1:30 p.m. |
|--|--|--------------------------------|

| | |
|---|--------------------------------|
| Indian Hills Community College – 8 Bldg. 14, 651 Indian Hills Dr. Ottumwa, Iowa | November 16, 2004 1:30 p.m. |
|---|--------------------------------|

| | |
|---|--------------------------------|
| Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa | November 16, 2004 1:30 p.m. |
|---|--------------------------------|

| | |
|---|--------------------------------|
| Public Library 21 E. Third St. Spencer, Iowa (South entrance under canopy) | November 16, 2004 1:30 p.m. |
|---|--------------------------------|

| | |
|---|--------------------------------|
| Public Library 400 Willow Ave. Council Bluffs, Iowa (South side main entrance) | November 16, 2004 1:30 p.m. |
|---|--------------------------------|

ENVIRONMENTAL PROTECTION COMMISSION[567]

| | | |
|--|--|-------------------------------|
| Maintenance of manure management plan records, 65.17(13) IAB 11/10/04 ARC 3807B | Fifth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa | December 3, 2004 1:30 p.m. |
|--|--|-------------------------------|

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| | | |
|---|-----------------------------------|---------------------------------|
| Confidential records; cease and desist orders, 1.3, 3.32, 15.2, 15.14 IAB 10/27/04 ARC 3752B | 330 Maple St. Des Moines, Iowa | November 16, 2004 10:30 a.m. |
|---|-----------------------------------|---------------------------------|

| | | |
|--|-----------------------------------|-----------------------------|
| Life and health self-funded plans, 35.20 IAB 11/10/04 ARC 3802B | 330 Maple St. Des Moines, Iowa | December 1, 2004 10 a.m. |
|--|-----------------------------------|-----------------------------|

| | | |
|---|-----------------------------------|------------------------------|
| Medicare supplement insurance minimum standards, amendments to ch 37 IAB 10/27/04 ARC 3753B | 330 Maple St. Des Moines, Iowa | November 16, 2004 10 a.m. |
|---|-----------------------------------|------------------------------|

PROFESSIONAL LICENSURE DIVISION[645]

| | | |
|---|---|-------------------------------------|
| Physician assistants—supervision requirements, 326.8(4) IAB 11/10/04 ARC 3774B | Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa | November 30, 2004 9 to 9:30 a.m. |
|---|---|-------------------------------------|

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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ARC 3776B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2003 Iowa Code Supplement section 8A.104, the Department of Administrative Services proposes to amend Chapter 1, “Department Organization,” and Chapter 66, “Conduct of Employees,” Iowa Administrative Code.

These amendments are pursuant to 2004 Iowa Acts, Senate File 2179, signed by the Governor on April 20, 2004, which transfers authority from the Department of Administrative Services to the Iowa Ethics and Campaign Disclosure Board to adopt rules specifying the method by which employees may obtain agency consent for the sales of goods or services to individuals, associations, or corporations subject to the regulatory authority of the Department as specified under Iowa Code section 68B.4. Rule 11—66.2(68B) is rescinded and has been replaced by rules 351—6.10(68B) to 351—6.12(68B) adopted by the Iowa Ethics and Campaign Disclosure Board.

Regulatory agencies continue to specify the method by which officials may obtain agency consent. Rule 11—1.7(68B) regarding the method by which DAS officials may obtain consent has been added to Chapter 1.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on November 30, 2004. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; E-mail Carol.Stratemeyer@iowa.gov.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3775B**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2003 Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 3784B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2003 Iowa Code Supplement section 8A.104, the Department of Administrative Services hereby proposes to amend Chapter 41, “Auditing Claims,” Iowa Administrative Code.

The purpose of this amendment is to eliminate the mandatory requirement to use a state contract for the purchase of airline tickets. The state will negotiate nonexclusive contracts for air travel, the use of which will be optional for state agencies and their employees. This change will allow an agency the flexibility to direct its employees to purchase tickets from the source determined by the agency to be the best value.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on November 30, 2004. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; or E-mail Carol.Stratemeyer@iowa.gov.

There will be a public hearing on November 30, 2004, at 10:30 a.m. in Conference Room 4 at the Hoover State Office Building, Level A, Des Moines, at which time all interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Persons with special needs should contact the Department of Administrative Services prior to the hearing if accommodations are needed.

This amendment is intended to implement 2003 Iowa Code Supplement section 8A.513.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 41.5(3) as follows:

41.5(3) Purchase of tickets.

a. All state agencies covered by the statewide travel agency ~~contract~~ *contracts shall may* purchase all airline tickets through ~~the a~~ travel agency ~~currently~~ under contract. *Employees shall purchase tickets from the source determined by their agency to be the best value.*

b. For all other tickets purchased, it shall be the employee’s responsibility to purchase the ticket for whatever mode of transportation that is determined to be the most economical. Reimbursement will be made by attaching the ~~ticket~~ *a receipt* to the employee travel voucher. Refunds received on any unused portion of the ticket shall be shown and deducted from the original ticket.

ARC 3778B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 12, “Dental and Dental Hygiene Examinations,” Iowa Administrative Code.

This amendment requires a dental hygiene examinee who fails a clinical examination for licensure on the second attempt to submit proof of additional formal education or clinical experience that is a minimum of 40 hours in length and that is approved in advance by the Dental Hygiene Committee.

This amendment is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendment on or before November 30, 2004. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to jhart@bon.state.ia.us.

Also, there will be a public hearing on November 30, 2004, beginning at 2 p.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Any person who plans to attend the public hearing and who may have special requirements, such as hearing or mobility impairments, should contact the Board and advise of specific needs.

This amendment was approved at the October 14, 2004, regular meeting of the Board of Dental Examiners. The Board ratified a recommendation of the Dental Hygiene Committee to make the proposed change.

This amendment is intended to implement Iowa Code chapters 17A, 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 12.4(2) as follows:

12.4(2) Third examination. Prior to the third examination attempt, a dental hygiene examinee must submit proof of *a minimum of 40 hours of additional formal education or a minimum of 40 hours of clinical experience that is approved in advance by the dental hygiene committee.*

ARC 3779B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 30, “Discipline,” and Chapter 31, “Complaints and Investigations,” Iowa Administrative Code.

These amendments specify requirements related to the obligation of all licensees and registrants to make mandatory reports of any acts or omissions that could constitute a basis for disciplinary action when committed by another person regulated by the Board. Board rules define a reportable act or omission as any conduct that may constitute a basis for disciplinary action under the rules or statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa. Grounds for disciplinary action include violating any provision of Iowa law. Board rules 650—10.6(147,153,272C) and 650—31.13(272C) further define the obligation of licensees and registrants to make mandatory reports.

These amendments are not subject to waiver pursuant to rule 650—30.4(147,153,272C).

Any interested person may make written comments or suggestions on the proposed amendments on or before January 3, 2005. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to jhart@bon.state.ia.us.

Also, there will be a public hearing on January 13, 2005, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the October 14, 2004, regular meeting of the Board of Dental Examiners. These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3777B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 17A, 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 3770B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The proposed amendment revises a cross reference in a rule from Chapter 12, which has been rescinded, to Chapter 25, which has replaced it.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, November 30, 2004, at 1 p.m. in Room 3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, December 3, 2004. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 282—11.37(272), introductory paragraph, as follows:

282—11.37(272) Mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct. The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under Iowa Code sections 279.12, 279.13, 279.15 through 279.21,

279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of 282—~~paragraph 12.2(2)"a,"~~ *subparagraph 25.3(1)"b"(1)*, when the board or reporting official has a good-faith belief that the incident occurred or the allegation is true.

ARC 3771B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 21, "Behind-the-Wheel Driving Instructor Authorization," Iowa Administrative Code.

The proposed amendment is necessary to align the rule with recent changes in Department of Transportation qualifications with regard to a clear driving record.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, November 30, 2004, at 1:30 p.m. in Room 3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, December 3, 2004. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Amend subrule 21.1(1) as follows:

21.1(1) Qualifications. To qualify for the behind-the-wheel driving instructor authorization, the applicant must:

- a. Be at least 25 years of age.
- b. Hold a valid Iowa driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.
- c. Have a clear driving record for the previous ~~four~~ *two* years. A clear driving record means that the individual has:
 - (1) Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or serious violation provisions of rule 761—615.17(321).
 - (2) No driver's license suspensions, revocations, denials, cancellations, disqualifications, or bars.
 - (3) Not committed an offense which results in driver's license suspension, revocation, denial, cancellation, disqualification, or bar.
 - (4) No record of an accident for which the individual was convicted of a ~~motion~~ *moving* traffic violation.

ARC 3807B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 459.103, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 65, “Animal Feeding Operations,” Iowa Administrative Code.

On August 11, 2004, the Administrative Rules Review Committee delayed for 70 days the August 25, 2004, effective date for paragraph 65.17(13)“e.” This paragraph requires that manure management plan records maintained after August 25, 2005, include the date and application rate of commercial nitrogen and phosphorus on fields that received manure. The basis for delaying the effective date of this paragraph was a concern that persons required to maintain manure management plan records would be held responsible for excessive commercial nitrogen or phosphorus applied to land that they do not own or rent for crop production purposes. The proposed amendment would prohibit the Department from taking enforcement action against any person who relies on such information unless the person knew or should have known that the application rate was excessive.

Any interested person may make written suggestions or comments on the proposed amendment on or before December 3, 2004. Written comments should be directed to Gene Tinker, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895.

Also, there will be a public hearing on December 3, 2004, at 1:30 p.m. in the Fifth Floor Conference Rooms of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, people will be asked to give their names and addresses for the record

and to confine their remarks to the subject of the proposed amendment.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 459.312.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend paragraph **65.17(13)“e”** as follows:

e. Effective August 25, 2005, date(s) and application rate(s) of commercial nitrogen and phosphorus on fields that received manure. *However, if the date and application rate information is for fields which are not owned for crop production or which are not rented or leased for crop production by the person required to keep records pursuant to this subrule, an enforcement action for noncompliance with a manure management plan or the requirements of this subrule shall not be pursued against the person required to keep records pursuant to this subrule or against any other person who relied on the date and application rate in records required to be kept pursuant to this subrule, unless that person knew or should have known that nitrogen or phosphorus would be applied in excess of maximum levels set forth in paragraph 65.17(1)“a.”*

ARC 3791B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The proposed amendments require state party committees to disclose on their reports candidate ID numbers when making contributions to statewide and General Assembly candidates or a judge standing for retention. The proposed amendments also require such candidates to disclose on their reports the state party ID number when receiving contributions. This requirement currently applies to statewide political committees (PACs), but not to the state parties.

The proposed amendments do not contain a waiver provision as the Board may require such information pursuant to statute.

Any interested person may make written comments on the proposed amendments on or before November 30, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street,

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515) 281-3489.

These amendments are intended to implement Iowa Code Supplement section 68A.402A(1)“k.”

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind subrule 4.14(6) and adopt the following **new** subrule in lieu thereof:

4.14(6) ID number and check number. If a contribution to a statewide or general assembly candidate or a judge standing for retention is from a statewide political committee (PAC) or a state party committee, the candidate receiving the contribution shall include on the candidate's disclosure report the board-assigned identification number of the contributing committee and the check number by which the contribution was made. A list of ID numbers may be obtained from the board and is also available on the board's Web site at www.iowa.gov/ethics.

ITEM 2. Rescind subrule 4.15(5) and adopt the following **new** subrule in lieu thereof:

4.15(5) Candidate ID number and committee check number. If a contribution is made by a statewide political committee (PAC) or a state party committee to a statewide or general assembly candidate or a judge standing for retention, the committee making the contribution shall include on the committee's disclosure report the board-assigned identification number of the recipient candidate's committee and the check number by which the contribution was made. A list of candidate ID numbers may be obtained from the board and is also available on the board's Web site at www.iowa.gov/ethics.

ARC 3790B

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

Iowa Code Supplement section 68A.201(5) permits an out-of-state committee making a contribution in excess of \$50 to a committee in Iowa to file a verified statement of registration (VSR) with the Board as opposed to registering as a state political committee (PAC) in Iowa. The proposed amendment clarifies that a federal PAC is permitted to make contributions to Iowa state committees and file VSRs in lieu of registering as an Iowa state PAC.

The proposed amendment does not contain a waiver provision as the proposed amendment reflects the language of the statute.

Any interested person may make written comments on the proposed amendment on or before November 30, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515) 281-3489.

This amendment is intended to implement Iowa Code Supplement section 68A.201(5).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 351—4.32(68A), introductory paragraph, as follows:

351—4.32(68A) Contributions from political committees not organized in Iowa. Iowa committees may receive contributions from committees outside Iowa, and committees outside Iowa may contribute to Iowa committees provided the out-of-state committee complies with either subrule 4.32(1) or subrule 4.32(2). *For purposes of this rule, “out-of-state committee” means a committee that is registered with the campaign enforcement agency of another state or is registered with the Federal Election Commission.*

ARC 3789B

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 6, “Executive Branch Ethics,” Iowa Administrative Code.

The proposed amendment continues the process of the Board's adopting standards for governing the ethical conduct of persons in the executive branch of state government. The proposed amendment also prohibits executive branch officials, employees, and candidates for statewide office from receiving loans, with certain exceptions, from executive branch lobbyists.

The proposed amendment does not contain a waiver provision as it reflects statutory obligations.

Any interested person may make written comments on the proposed amendment on or before November 30, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515) 281-3489.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

This amendment is intended to implement Iowa Code Supplement section 68B.32A(12) and Iowa Code section 68B.24.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend 351—Chapter 6 by adopting the following **new** division:

DIVISION V
GIFTS AND OFFERS

351—6.16 to 6.19 Reserved.

351—6.20(68B) Loans from executive branch lobbyists prohibited. Pursuant to Iowa Code section 68B.24, officials, employees, and candidates for statewide office shall not directly or indirectly seek or accept a loan from a person who is an executive branch lobbyist.

6.20(1) Definitions. For purposes of this rule, the following definitions apply:

“Executive branch lobbyist” means an individual who is registered as a lobbyist with the board or is an “executive branch lobbyist” as defined in rule 351—8.2(68B).

“Loan” means a sum of money upon agreement, express or implied, to be repaid with or without interest.

6.20(2) Offer of loan prohibited. An executive branch lobbyist shall not directly or indirectly offer or make a loan to an official, an employee, or a candidate for statewide office as prohibited in Iowa Code section 68B.24(2) and rule 351—8.16(68B).

6.20(3) Exceptions. The prohibitions in Iowa Code section 68B.24 and this rule do not apply to a loan made in either of the following circumstances:

a. A loan made in the ordinary course of business. For purposes of Iowa Code section 68B.24 and this rule, “ordinary course of business” means the loan is made by a person regularly engaged in a business that makes loans to members of the public, and the finance charges and other terms of the loan are the same as or substantially similar to the finance charges and loan terms that are available to members of the public.

b. A loan made to the campaign committee of a candidate for statewide office that is subject to the campaign laws in Iowa Code Supplement chapter 68A.

This rule is intended to implement Iowa Code Supplement section 68B.32A(12) and Iowa Code section 68B.24.

ARC 3793B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure

Board hereby gives Notice of Intended Action to amend Chapter 9, “Complaint, Investigation, and Resolution Procedures,” Iowa Administrative Code.

The proposed amendment establishes whistle-blower protection for an employee who in good faith files a complaint with the Board, provides information to the Board for possible Board-initiated investigation, or provides information during a Board investigation.

The proposed amendment does not contain a waiver provision as the proposed amendment is mandated by statute.

Any interested person may make written comments on the proposed amendment on or before November 30, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515) 281-3489.

This amendment is intended to implement Iowa Code Supplement section 68B.32A(13) and Iowa Code section 68B.32B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 351—9.6(68B) as follows:

351—9.6(68B) Whistle-blower protection. A person who discharges or discriminates against an employee because the employee filed a complaint, provided information to the board for a possible board-initiated investigation, or provided information during the course of a board investigation shall be subject to the board's complaint process if the employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an employee, the board may impose sanctions as set out in Iowa Code section 68B.32D.

For purposes of this rule, “good faith” means that any statements or materials in a complaint, in information provided to the board for a possible board-initiated investigation, or in information provided during the course of a board investigation were made or provided with a reasonable belief that such statements or materials were true and accurate.

This rule is intended to implement Iowa Code Supplement section 68B.32A(13) and Iowa Code section 68B.32B.

ARC 3792B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Chapter 15, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

The proposed amendment clarifies that a person requesting a waiver of a civil penalty imposed by Board rule for a late-filed report is not required to use the process for seeking a waiver set out in 351—Chapter 15 and instead may simply submit a letter that states any reasons why a waiver should be granted.

The proposed amendment does not contain a waiver provision as the requirement is not imposing an obligation on the regulated community.

Any interested person may make written comments on the proposed amendment on or before November 30, 2004. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515) 281-3489.

This amendment is intended to implement Iowa Code chapters 17A and 68B and Iowa Code Supplement chapter 68A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 351—15.2(17A,68A,68B) as follows:

351—15.2(17A,68A,68B) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations when no other more specifically applicable law or rule provides for waivers. To the extent another more specific provision of law or rule governs the issuance of a waiver, the more specific provision shall supersede this chapter with respect to any waiver process. *A person seeking a waiver of a civil penalty under rule 351—4.60(68B), 351—7.6(68B), or 351—8.12(68B) for the late filing of a report is not required to follow the process set out in this chapter. The person may instead file the waiver request by submitting a letter that includes any reasons why a waiver should be granted.*

INSURANCE DIVISION

Notice of Approval of Workers' Compensation Rate Filing

Pursuant to the provisions of Iowa Code chapter 515A, the National Council on Compensation Insurance, Inc. (NCCI) submitted a rate filing on August 11, 2004. Notice of the filing was published in the Iowa Administrative Bulletin on September 29, 2004. No request for a hearing on the rate filing was received.

The rate filing proposes a rate of 1 cent per \$100 payroll for domestic terrorism, earthquakes, and catastrophic industrial accidents. The net statewide effect of the filing is estimated to be an overall increase in rates of +0.6%. Based on an independent review of the NCCI proposal, the Commissioner finds the proposed manual rates not to be excessive, inadequate, or unfairly discriminatory.

Therese M. Vaughan, Commissioner of Insurance, ordered that the August 11, 2004, rate filing is approved to be effective January 1, 2005.

INSURANCE DIVISION

Notice of Approval of Workers' Compensation Rate Filing

Pursuant to the provisions of Iowa Code chapter 515A, the National Council on Compensation Insurance, Inc. (NCCI) submitted a rate filing on August 30, 2004. Notice of the filing was published in the Iowa Administrative Bulletin on September 29, 2004. No request for a hearing on the rate filing was received.

The rate filing proposes an overall decrease in rates of 1.1% and an increase in the expense constant from \$240 to \$260 for a combined premium level decrease of 0.8%. Based on an independent review of the NCCI proposal, the Commissioner finds the proposed manual rates not to be excessive, inadequate, or unfairly discriminatory.

Therese M. Vaughan, Commissioner of Insurance, ordered that the August 30, 2004, rate filing is approved to be effective January 1, 2005.

INSURANCE DIVISION

Notice of Proposed Workers' Compensation Rate Filing

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance, Inc. has made a rate filing which affects the premium rates for workers' compensation insurance.

The filing proposes an overall decrease of 2.6% in the voluntary and residual market rates effective January 1, 2005, to account for the estimated savings in overall costs due to the provisions of 2004 Iowa Acts, First Extraordinary Session, House File 2581.

A workers' compensation policyholder or an established organization with one or more workers' compensation policyholders among its members may request a hearing before the Commissioner of Insurance regarding this rate filing. Such a request must be filed within 15 days of the date of this publication, that is, by November 29, 2004, and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, 330 Maple, Des Moines, Iowa 50319. Absent such a request, the Commissioner will issue an order concerning the rates within another 10 days, that is, by December 9, 2004.

ARC 3802B

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 509 and section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 35, "Accident and Health Insurance," Iowa Administrative Code.

The proposed rule is intended to implement the findings of the School Health Insurance Reform Study mandated by the

INSURANCE DIVISION[191](cont'd)

2003 Legislature in 2003 Iowa Acts, Senate File 386. The proposed rule is intended to fortify the Division's rules concerning self-funded health insurance plans for school districts and school district employees, especially the use of Iowa Code chapter 28E agreements that allow a group of schools to enter into a pooling mechanism for the delivery and cost of health care. The proposed rule strengthens the oversight of public self-funded pooling arrangements, including filing and registration guidelines, surplus requirements and financial reporting.

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed rule on or before November 30, 2004. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, 330 Maple, Des Moines, Iowa 50319. Comments may also be submitted electronically to angela.burke.boston@iud.state.ia.us.

A public hearing will be held at the offices of the Insurance Division at 10 a.m. on Wednesday, December 1, 2004. The Division is located at 330 Maple, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code chapter 509A and 2003 Iowa Acts, Senate File 386 [chapter 83].

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rule 191—35.20(509A) and adopt the following **new** rule in lieu thereof:

191—35.20(509A) Life and health self-funded plans.

35.20(1) Scope. This rule shall apply to life and health self-funded plans for political subdivisions of the state, school corporations, and all other public bodies of the state. This rule shall not apply to life and health self-funded plans for the state of Iowa.

35.20(2) Iowa Code chapter 28E agreements—certificate of registration. Public entities seeking to pool risk through a joint exercise of power under Iowa Code chapter 28E shall apply for and obtain a certificate of registration from the commissioner. This subrule shall not apply to single-employer public entities with self-insured plans.

a. An application for a certificate of registration shall contain the following:

(1) A copy of the proposed agreement entered into pursuant to Iowa Code chapter 28E, to be executed by all plan participants;

(2) A copy of the articles of incorporation, bylaws, agreements, or other documents or instruments describing the rights and obligations of employers, employees and beneficiaries;

(3) A copy of all contracts with insurance companies, consultants and third-party administrators;

(4) A business plan, including a copy of all contracts or other instruments which the 28E agreement proposes to make with or sell to its members, a copy of its plan description and the printed matter to be used in the solicitation of members; and

(5) A current list of all participating public entities.

b. Iowa Code chapter 28E agreements shall contain the following provisions:

(1) If the plan is in a deficit position, a participant cannot terminate from the plan without the prior written consent of the commissioner;

(2) If a participant in the plan terminates, the terminating participant shall be assessed its proportionate share of the plan's deficit, if any;

(3) Deficit assessments shall be mandatory for all plan participants within a time frame acceptable to the commissioner;

(4) Plan participants have no individual interest in the accumulated surplus of a plan; and

(5) Upon termination of the plan, surplus remaining after the payment of all liabilities shall be distributed proportionately to plan participants that were active members of the plan on the termination date.

c. Reporting requirements. In addition to the requirements of subrule 35.20(3), all public entities pooling risk shall submit:

(1) Quarterly financial statement. A plan shall file with the commissioner of insurance within 60 days of the end of each quarter a report which has been verified by at least two of its principal officers and which covers the preceding calendar quarter. The report shall be on a form prescribed by the commissioner. The commissioner of insurance may request additional reports and information from a plan as often as is deemed necessary.

(2) Amendments. A plan shall submit copies of any proposed amendment to the documents submitted in accordance with subrule 35.20(2), paragraph "a," 30 days in advance of the amendment's proposed effective date.

(3) Other documents. A plan shall submit any other documents deemed necessary by the commissioner.

35.20(3) Minimum plan standards for both pooled and single-employer public entities. Self-funded life plans subject to this rule shall meet the requirements of Iowa Code sections 509.1, 509.2, 509.4, and 509.15 and rules thereunder. Self-funded health plans subject to this rule shall meet the requirements of Iowa Code sections 509.1 and 509.3 and rules thereunder. In order to ensure that a self-funded life or health plan is able to cover all reasonably anticipated expenses and to avoid liability for the public body, a self-funded life or health plan shall provide that:

a. An annual report showing the starting and ending balance of the fund, deposits of monthly accrual rates and other assets of the fund, and the amount and nature of all disbursements from the fund shall be prepared and submitted to the governing body of the public body. An annual report shall be made to show a separate accounting to reflect all required reserves.

b. Monthly accrual rates shall be established at a satisfactory level to provide funds to cover all claims, reserves, and expenses to operate the plan. Accrual rates shall be re-evaluated annually. Accrual rates shall be funded solely through public body contributions or through a combination of employer and employee contributions.

c. A plan fund shall be established exclusively for the deposit of monthly accrual rates and other assets pertaining to the plan. After a self-funded life or health plan is established and as long as any claims may be made against the plan fund, all contributions shall be deposited as collected in the plan fund. The plan fund shall be disbursed only for plan expenses.

d. The following reserves shall be established in the plan fund:

(1) A reserve for claims that have been incurred by participants under the plan, but have not yet been presented for

INSURANCE DIVISION[191](cont'd)

payment. The appropriate amount of this reserve shall be on an actuarially sound basis as determined by an independent actuary, an insurance company, or a nonprofit health service corporation authorized pursuant to Iowa Code chapter 514.

(2) A claims fluctuation reserve for setting aside funds that become available during a month when claims are less than projected for that month. Funds shall be maintained and available for a month in which claims exceed those projected for that month. For public entities that require a certificate of registration under subrule 35.20(2), the claims fluctuation reserve shall equal or exceed a minimum of two months of paid claims.

e. The public body shall obtain a fidelity bond as a guaranty of faithful operation of the self-funded plan by the public body, its officers, agents, and employees.

f. Disbursements from the plan fund shall be made only for the following specified plan expenses:

- (1) Payment of claims.
- (2) Cost of aggregate excess loss coverage.
- (3) Cost of specific excess loss coverage.
- (4) Bonding expenses.

(5) Payment of service fees applicable to plan design, payment of claims, materials explaining plan benefits, actuarial assistance, legal assistance, and accounting assistance.

(6) Other expenses directly related to the operation of the plan.

g. Aggregate excess loss coverage shall be obtained which will limit a public body's total claim liability for each year to not more than 125 percent of the level of claims liability as projected by an independent actuary or insurance company. A public body shall fund this potential additional liability of 25 percent either by allocating necessary funds from the operating fund of the general fund or by setting up an additional reserve in the operating fund. Specific excess loss coverage may also be obtained if a public body wishes to limit its total annual liability on claims for any one claimant.

h. The commissioner may retain an independent actuary, at the commissioner's discretion, to review the adequacy of a plan's reserves. The cost of such review shall be paid by the plan. Examples that illustrate when the commissioner may retain an independent actuary include, but are not limited to, negative trends in the plan's financial statements, an increase in consumer complaints about the plan's failing to timely pay claims and material changes to the plan's operations.

35.20(4) Plan shortfalls. If the resources of any self-funded plan subject to this rule are not adequate to fully cover all claims under that plan, then the public body sponsoring that plan shall make up the shortfall from other resources.

35.20(5) Confidentiality. Information held by the plan administrator of a self-funded plan shall be kept confidential. An employee or agent of the plan administrator shall not use or disclose any information to any person, except to the extent necessary to administer claims or as otherwise authorized by law.

35.20(6) A health self-funded plan subject to this rule shall not prohibit a participating provider from or penalize a participating provider for discussing treatment options with covered persons, irrespective of a self-funded plan's position on the treatment options, or from advocating on behalf of covered persons within the utilization review or grievance processes established by the self-funded plan or a person contracting with the self-funded plan.

The self-funded plan shall not penalize a provider because the provider, in good faith, reports to state or federal authorities any act or practice by the self-funded plan that, in the opinion of the provider, jeopardizes patient health or welfare.

35.20(7) Benefits shall be made available by the health self-funded plan for inpatient and outpatient emergency services. Since self-funded plans may not contract with every emergency care provider in an area, self-funded plans shall make every effort to inform members of participating providers.

The term "emergency services" means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that are furnished by a provider who is qualified to furnish the services that are needed to evaluate or stabilize an emergency medical condition.

The term "emergency medical condition" means a medical condition manifesting itself by symptoms of sufficient severity, including but not limited to severe pain, that an ordinarily prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman and her unborn child in serious jeopardy;

2. Serious impairment to bodily function; or

3. Serious dysfunction of any bodily organ or part.

Reimbursement to a provider of "emergency services" shall not be denied by any health maintenance organization without that organization's review of the patient's medical history, presenting symptoms, and admitting or initial diagnosis as well as final diagnosis, submitted by the provider, in determining whether, by definition, emergency services could reasonably have been expected to be provided. Reimbursement for emergency services shall not be denied solely on the grounds that a noncontracted provider performed services. If reimbursement for emergency services is denied, the enrollee may file a complaint with the self-funded plan. Upon denial of reimbursement for emergency services, the self-funded plan shall notify the enrollee and the provider that they may register a complaint with the commissioner of insurance.

35.20(8) A health self-funded plan subject to this rule shall allow a female member direct access to obstetrical or gynecological services from network and participating providers. The plan shall also allow a pediatrician to be the primary care provider for a child through the age of 18.

This rule is intended to implement Iowa Code chapter 509A and 2003 Iowa Acts, chapter 83.

ARC 3798B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 4, "Pharmacist-Interns," Iowa Administrative Code.

PHARMACY EXAMINERS BOARD[657](cont'd)

The amendments were approved at the July 13, 2004, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments increase the credit hours granted for college-based clinical pharmacist-intern training programs to 1250 hours and require that the remaining 250 internship hours be obtained in traditional pharmacy practice sites. The amendments also provide that the 250 hours of traditional internship training may be obtained, at a rate not to exceed 10 hours per week, concurrent with academic training. Criteria for nontraditional internship are established, providing that a registered intern may intern in a nontraditional internship program if the Board, prior to the intern's starting the internship, approves the proposed objectives submitted by the intern. Any hours obtained in nontraditional internship shall not count toward the total 1500 hours required prior to pharmacist licensure in Iowa but may be certified in recognition of training obtained outside the scope of traditional pharmacy practice. The amendments require that a pharmacist serving as preceptor shall be licensed in good standing in the state where the internship is to be served.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 30, 2004. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

These amendments are intended to implement Iowa Code section 155A.6.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 657—4.3(155A) as follows:

657—4.3(155A) 1500-hour requirements. Internship credit may be obtained only after internship registration with the board and successful completion of one semester in a college of pharmacy. Internship shall consist of a minimum of 1500 hours, ~~4000~~ 1250 hours of which may be a college-based clinical program approved or accepted by the board. Programs shall be structured to provide experience in community, institutional, and clinical pharmacy practices. The remaining ~~500~~ 250 hours shall be acquired under the supervision of one or more preceptors in a ~~traditional~~ licensed *general or hospital* pharmacy ~~or other board-approved location~~, at a rate of no more than 48 hours per week. ~~At least 250 hours shall be earned in a traditional licensed general or hospital pharmacy, where the goal and objectives of internship in rule 4.2(155A) apply. Internship credit~~ Credit toward the stipulated ~~500~~ 250 hours will ~~not be allowed, at a rate not to exceed 10 hours per week, if it is acquired for an internship served concurrent with academic training.~~ “Concurrent time” means internship experience acquired while the person is a full-time student carrying, in a given school term, at least 75 percent of the average number of credit hours per term needed to graduate and receive an entry level degree in pharmacy. ~~Credit toward the 500 hours will be granted for experience gained during recognized~~ *Recognized academic* holiday periods, such as spring break and Christmas break, ~~shall not be considered “concurrent time.”~~ The competencies in subrule 4.2(2) shall not apply to college-based clinical programs.

ITEM 2. Amend subrule **4.6(3)**, paragraph “c,” as follows:

c. Notarized affidavits of experience in non-college-sponsored programs shall be filed with the board office after the successful completion of the appropriate internship booklet ~~and completion of all required internships~~. These affidavits shall include certification of competencies and shall certify only the number of hours and dates of training ~~which are nonconcurrent with college of pharmacy enrollment~~ as provided in rule 4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience or to submit certification of competencies.

ITEM 3. Amend subrule 4.6(4) as follows:

4.6(4) No credit prior to registration. Credit will not be given for internship experience obtained prior to the individual's registration as a pharmacist-intern. Credit for Iowa college-based clinical programs (~~4000~~ 1250 hours) will not be granted unless registration is issued before the student begins the program.

ITEM 4. Rescind subrule 4.6(5) and adopt the following **new** subrule in lieu thereof:

4.6(5) Nontraditional internship. Internship training at any site which is not licensed as a general or hospital pharmacy is considered nontraditional internship.

a. Application. Prior to beginning a period of nontraditional internship, the intern shall submit a written application, on forms provided by the board, for approval of the objectives of the nontraditional internship. The application shall identify objectives consistent with the unique learning experiences of the intern and consistent with the goal and objectives of internship in rule 4.2(155A).

b. Preceptor. A preceptor supervising a pharmacist-intern in a nontraditional internship shall be a currently licensed pharmacist in the state where the internship is served, and the requirements of rule 4.9(155A) shall apply to all preceptors.

c. Certification, not credit. Hours obtained in nontraditional internship shall not be credited toward the total 1500 hours required pursuant to rule 4.3(155A) prior to licensure to practice pharmacy in Iowa. The board may, however, certify hours obtained in one or more approved nontraditional internships in recognition of the pharmacist-intern's training outside the scope of traditional pharmacy practice. Certification shall not be granted for experience obtained in a nontraditional internship unless the board, prior to the intern's beginning the period of internship, approved the objectives of the internship.

ITEM 5. Amend subrule 4.9(1) as follows:

4.9(1) Licensed pharmacist. A preceptor shall be a licensed pharmacist in good standing ~~in the state where the internship is to be served~~ pursuant to the definition of pharmacist preceptor in rule 4.1(155A).

ARC 3799B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Drugs in Emergency Medical Services Programs,” Iowa Administrative Code.

The amendment was approved at the July 13, 2004, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment permits an emergency medical services program to enter into a contract for payment to a provider pharmacy of reasonable fees and charges for services not limited to nonproduct pharmacy services.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 30, 2004. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

This amendment is intended to implement Iowa Code sections 124.301 and 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 11.2(1), paragraph “a,” as follows:

a. A formal written agreement shall be made between the base pharmacy and the service establishing that the EMS is operating as an extension of the base pharmacy with respect to the drugs. The service contract may provide for payment by the service to the pharmacy of reasonable fees or charges for nonproduct pharmacy services.

ARC 3774B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistant Examiners hereby gives Notice

of Intended Action to amend Chapter 326, “Licensure of Physician Assistants,” Iowa Administrative Code.

The proposed amendment clarifies communication between physician assistants and physicians regarding supervision responsibilities.

Any interested person may make written comments on the proposed amendment no later than November 30, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on November 30, 2004, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code section 147.107 and chapters 148C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 326.8(4), introductory paragraph, as follows:

326.8(4) It shall be the responsibility of the physician assistant with a supervising physician to ensure that the physician assistant is adequately supervised. *The physician assistant shall ensure that the qualified practicing physician is informed of that physician’s supervisory responsibilities for the physician assistant.*

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

| | |
|--|-------|
| November 1, 2003 — November 30, 2003 | 6.25% |
| December 1, 2003 — December 31, 2003 | 6.25% |
| January 1, 2004 — January 31, 2004 | 6.25% |
| February 1, 2004 — February 29, 2004 | 6.25% |
| March 1, 2004 — March 31, 2004 | 6.25% |
| April 1, 2004 — April 30, 2004 | 6.00% |
| May 1, 2004 — May 31, 2004 | 5.75% |
| June 1, 2004 — June 30, 2004 | 6.25% |
| July 1, 2004 — July 31, 2004 | 6.75% |
| August 1, 2004 — August 31, 2004 | 6.75% |
| September 1, 2004 — September 30, 2004 | 6.50% |
| October 1, 2004 — October 31, 2004 | 6.25% |
| November 1 — November 30, 2004 | 6.25% |

ARC 3775B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Adopted and Filed Emergency

Pursuant to the authority of 2003 Iowa Code Supplement section 8A.104, the Department of Administrative Services hereby amends Chapter 1, "Department Organization," and Chapter 66, "Conduct of Employees," Iowa Administrative Code.

These amendments are pursuant to 2004 Iowa Acts, Senate File 2179, signed by the Governor on April 20, 2004, which transfers authority from the Department of Administrative Services to the Iowa Ethics and Campaign Disclosure Board to adopt rules specifying the method by which employees may obtain agency consent for the sales of goods or services to individuals, associations, or corporations subject to the regulatory authority of the Department as specified under Iowa Code section 68B.4. Rule 11—66.2(68B) is rescinded and has been replaced by rules 351—6.10(68B) to 351—6.12(68B) adopted by the Iowa Ethics and Campaign Disclosure Board.

Regulatory agencies continue to specify the method by which officials may obtain agency consent. Rule 11—1.7(68B) regarding the method by which DAS officials may obtain consent has been added to Chapter 1.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need to implement the provisions of 2004 Iowa Acts, Senate File 2179.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective on October 20, 2004, to coincide with the effective date of rules which were adopted by the Iowa Ethics and Campaign Disclosure Board.

The Department of Administrative Services adopted these amendments October 20, 2004.

These amendments are also published herein under Notice of Intended Action as **ARC 3776B** to allow for public comment.

These amendments are intended to implement 2003 Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179.

These amendments became effective October 20, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend 11—Chapter 1 by adopting the following **new** rule:

11—1.7(68B) Selling of goods or services. An official of the department shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department except as authorized by the director in accordance with Iowa Code section 68B.4 and the provisions of this rule.

1.7(1) Definitions. For the purposes of this rule, the following definitions apply:

"Compensation" means any money, thing of value, or financial benefit conferred in return for the sale of goods or

services rendered or to be rendered.

"Department" means the department of administrative services.

"Director" means the director of the department of administrative services.

"Official" means the director of the department of administrative services, the deputy executive or administrative head or heads of the department and the heads of the major subunits of the department whose positions involve a substantial exercise of administrative discretion or the expenditure of public funds.

"Sale of goods or services" means the receipt of compensation by an official for providing goods or services. For purposes of this rule, the sale of goods or services shall not apply to outside employment activities that constitute an employer-employee relationship not otherwise constituting a conflict of interest pursuant to Iowa Code section 68B.2A.

1.7(2) Conditions for consent. Consent to a sale of goods or services shall not be given unless all of the following conditions are met:

a. The job duties or functions performed by the official seeking consent are not related to the department's regulatory authority over the individual, association, or corporation to which the goods or services will be sold.

b. The selling of the goods or services does not affect the official's assigned job duties or functions in the department.

c. The selling of the goods or services does not cause the official to advocate on behalf of the individual or entity to the department.

d. The selling of the goods or services does not cause the official to sell goods or services to the department on behalf of the individual, association, or corporation.

e. The selling of the good or service will not create a conflict of interest as provided in Iowa Code section 68B.2A.

f. The request conforms with the procedural requirements of subrule 1.7(3).

1.7(3) Requests for consent. An official's request for consent to the sale of goods or services shall comply with all the following:

a. A written request, signed by the official, seeking consent for the sale of goods or services shall be filed with the department director at least 20 calendar days in advance of the proposed sale of goods or services. A request shall not be considered filed until all information specified in paragraph 1.7(3)"b" is received.

b. The request shall include, but not be limited to, the following:

(1) The name of the individual, association, or corporation to which the goods or services are to be sold;

(2) A description of the goods or services;

(3) The anticipated date(s) of delivery of the goods or services;

(4) The approximate amount and form of compensation; and

(5) A statement by the official explaining why the proposed sale of goods or services will not violate the provisions of 2003 Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179, section 5, or create a conflict of interest pursuant to Iowa Code section 68B.2A.

1.7(4) Consent or denial.

a. Who may consent or deny. The director, if not the subject of the request, will consider the request and consent to or deny the request. The director may require the submission of additional information prior to taking action on the request.

b. Timing and content of consent or denial. The director shall issue a written consent or denial of the request within 14

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calendar days following the date the request was filed or the additional information was received. If the request is denied, the director shall state the reason(s) for the denial.

c. Approved requests are valid only to the extent that all relevant facts have been disclosed and the relevant facts under which consent was granted remain unchanged.

d. Approved requests are subject to immediate revocation at any time with written notice by the director to the requester.

e. Requests and responses are public records within the meaning of Iowa Code section 22.1 and are open for public examination.

1.7(5) Effect of other laws. Neither this rule nor any consent provided under this rule constitutes consent for any activity which would constitute a conflict of interest at common law or which would violate any applicable statute or rule. Despite consent under this rule, the sale of goods or services to someone subject to the jurisdiction of the department may violate the gift, bribery, or corruption laws of the state of Iowa. It is the responsibility of the official to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.

1.7(6) Copy of consent filed. Pursuant to 2003 Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179, section 5, the department shall file a copy of the consent with the Iowa ethics and campaign disclosure board within 20 days of the granting of the consent.

This rule is intended to implement Iowa Code section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179.

ITEM 2. Rescind rule **11—66.2(68B)**.

[Filed Emergency 10/20/04, effective 10/20/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3777B**DENTAL EXAMINERS BOARD[650]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 30, "Discipline," and Chapter 31, "Complaints and Investigations," Iowa Administrative Code.

These amendments specify requirements related to the obligation of all licensees and registrants to make mandatory reports of any acts or omissions that could constitute a basis for disciplinary action when committed by another person regulated by the Board. Board rules define a reportable act or omission as any conduct that may constitute a basis for disciplinary action under the rules or statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa. Grounds for disciplinary action include violating any provision of Iowa law. Board rules 650—10.6(147,153,272C) and 650—31.13(272C) further define the obligation of licensees and registrants to make mandatory reports.

In compliance with Iowa Code subsection 17A.4(2), the Board finds that notice and public participation are unnecessary because the amendments merely adopt language that was previously in the rules. The Board previously adopted clarifications to these same subrules in Items 17 and 20 of

ARC 3520B, published July 21, 2004. At its August 2004 meeting, the Administrative Rules Review Committee imposed a 70-day delay on those items to allow the Board and the Iowa Dental Association (IDA) additional time to discuss the proposed changes. As a compromise with the IDA, the Board agreed to readopt the former language of the subrules while the Board and IDA further discuss the proposed changes.

These amendments are also published herein under Notice of Intended Action as **ARC 3779B** to allow for public comment.

These amendments were approved at the October 14, 2004, regular meeting of the Board of Dental Examiners.

These amendments are intended to implement Iowa Code chapters 17A, 147, 153, and 272C.

These amendments will become effective on December 15, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **650—30.4(147,153,272C)**, numbered paragraph "**24**," introductory paragraph and first unnumbered paragraph, as follows:

24. Failure to report any of the following:

Any acts or omissions which could result in ~~discipline~~ *the suspension or revocation of a licensee license or registrant registration* when committed by a person licensed or registered to practice dentistry, dental hygiene, or dental assisting.

ITEM 2. Amend rule 650—31.14(272C) as follows:

650—31.14(272C) Failure to report licensee or registrant. Upon obtaining information that a licensee or registrant failed to file a report required by rule 31.13(272C) within ~~seven~~ 30 days from the date the licensee or registrant acquired the information, the board may initiate a disciplinary proceeding against the licensee or registrant who failed to make the required report.

[Filed Emergency 10/21/04, effective 12/15/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3810B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 24, "Emergency Shelter Grants Program," Iowa Administrative Code.

The IDEB Board adopted the amendments on October 22, 2004.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3631B** on September 15, 2004.

The amendments make technical and language changes to

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clarify program operations and reporting requirements.

No comments concerning the amendments were received from the public. There are no changes as a result of the public hearing, and these amendments are identical to those published under Notice of Intended Action.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the amendments be made effective on October 22, 2004. These amendments confer a benefit on the public by finalizing application procedures prior to application submission.

The agency is taking the following steps to notify potentially affected parties of the effective date of the amendments: publishing the amendments in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

These amendments are intended to implement Iowa Code section 15.108(1)"a."

These amendments became effective on October 22, 2004.

The following amendments are adopted.

ITEM 1. Amend rule **261—24.2(PL100-628)**, definition of "project," as follows:

"Project" means the activity to be undertaken by the applicant and paid for with the ESGP funds. an activity or activities undertaken by the applicant to be carried out at a specific facility or location. No more than one project shall be funded at any one facility or location.

ITEM 2. Amend rule 261—24.6(PL100-628) as follows:

261—24.6(PL100-628) Application procedures. The Iowa department of economic development will request applications from eligible applicants as often as the state expects funding from the U.S. Department of Housing and Urban Development (HUD). Applicants will be given at least 30 days in which to reply to the state's request. The Iowa department of economic development will make funding decisions in conjunction with the time frame established by HUD. The application must be submitted on forms prescribed by IDED and must, at a minimum, include the amount of funds requested, the need for the funds, documentation of other available funding sources, source of required local match, and estimated number of persons to be served by the applicant (daily average). No individual project may receive more than \$50,000 in a grant application cycle annually. Applicants may receive a maximum of \$125,000 in ESGP funds per funding cycle annually. A minimum grant level of \$10,000 is required per applicant. *No more than one project per applicant shall be funded at any one facility or location.*

ITEM 3. Amend subrule 24.10(6) as follows:

24.10(6) Data reporting system. Recipients shall participate in a data reporting system *the HUD-approved Homeless Management Information System (HMIS)* developed by IDED as required in the executed contract.

ITEM 4. Amend paragraph **24.12(3)"a"** as follows:

a. *Homeless Management Information Network*—Service Point data reports. All recipients of ESGP funds are required to submit monthly reports on clients served using the Service Point reporting process as prescribed by IDED.

[Filed Emergency After Notice 10/22/04, effective 10/22/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3809B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 29, "Homeless Shelter Operation Grants Program," Iowa Administrative Code.

The IDED Board adopted the amendments on October 21, 2004.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3632B** on September 15, 2004.

The amendments make technical and language changes to clarify program operations and reporting requirements.

No comments concerning the amendments were received from the public. There are no changes as a result of the public hearing, and these amendments are identical to those published under Notice of Intended Action.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the amendments be made effective on October 22, 2004. These amendments confer a benefit on the public by finalizing application procedures prior to application submission.

The agency is taking the following steps to notify potentially affected parties of the effective date of the amendments: publishing the amendments in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

These amendments are intended to implement Iowa Code section 15.108(1)"a."

These amendments became effective on October 22, 2004.

The following amendments are adopted.

ITEM 1. Amend the parenthetical implementation for rules **261—29.1(78GA,ch1230)** to **261—29.11(78GA, ch1230)** as follows:
(78GA,ch1230 15)

ITEM 2. Amend rule **261—29.2(15)**, definition of "project," as follows:

"Project" means the activity to be undertaken by the applicant and paid for with HSOG funds. an activity or activities undertaken by the applicant to be carried out at a specific facility or location. No more than one project shall be funded at any one facility or location.

ITEM 3. Amend rule 261—29.6(15) by adding a **new** subrule as follows:

29.6(5) No more than one project per applicant shall be funded at any one facility or location.

ITEM 4. Amend rule **261—29.10(15)**, numbered paragraph **"5,"** as follows:

5. Recipients shall participate in a data reporting system *the HUD-approved Homeless Management Information System (HMIS)* developed by IDED as required in the executed contract.

ITEM 5. Amend paragraph **29.11(3)"a"** as follows:

a. *Homeless Management Information Network*—Service Point data reports. All recipients of HSOG funds are

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required to submit monthly reports on clients served using the Service Point reporting process as prescribed by IDIED.

[Filed Emergency After Notice 10/22/04, effective 10/22/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

gives written notice to DIA requesting a hearing, in which case the notice shall be deemed to be suspended.

[Filed Emergency 10/22/04, effective 11/3/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3808B

ELDER AFFAIRS DEPARTMENT[321]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby amends Chapter 26, "Monitoring, Civil Penalties, Complaints and Investigation for Elder Group Homes, Adult Day Services and Assisted Living Programs," Iowa Administrative Code.

The purpose of these amendments is to bring two subrules of this chapter into compliance with language contained in Iowa Code chapter 231C.

In compliance with Iowa Code section 17A.4(2), the Elder Affairs Department finds that notice and public participation are unnecessary because the amendments simply change the language of the rules to correspond with that contained in the Iowa Code.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective on November 3, 2004, to correspond with the effective date of the remainder of the chapter.

The Commission on Elder Affairs adopted these amendments on October 20, 2004.

These amendments are intended to implement Iowa Code chapter 231C.

These amendments became effective on November 3, 2004.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule 26.3(2), introductory paragraph, as follows:

26.3(2) Civil penalty for adult day services and assisted living programs. If a program ~~fails~~ *continues to fail* or refuses to comply, DIA may assess a civil penalty, which shall be paid to DIA within ten working days following assessment, as follows:

ITEM 2. Amend subrule 26.4(1) as follows:

26.4(1) ~~A notice setting forth the~~ The denial, suspension, or revocation of a certificate shall be ~~delivered~~ *effected by delivering* to the applicant or certificate holder by restricted certified mail, return receipt requested, or by personal service, *a notice setting forth the particular reasons for such action*. Such denial, suspension, or revocation shall become effective 30 days after the mailing or service of the notice, unless the applicant or certificate holder, within such 30-day period,

ARC 3773B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 514I.5(8), the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

These amendments permit a child who is enrolled in the HAWK-I Program to change health plans when there is a substantial change in the provider panel of the health plan originally chosen (provided that another plan is available). Substantial change means, but is not limited to, loss of a contracted hospital or provider group.

Current rules require children to remain enrolled in their selected plan for a period of 12 months. Requiring a child to remain in a plan that has made a substantial change in its provider panel may affect the continuity of care for the child. This is unfair to families who made their plan selection based on the provider panel that was available at the time.

These amendments do not provide for waivers in specified situations because the changes benefit customers. Customers may request a waiver of these provisions under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 21, 2004, as **ARC 3508B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The HAWK-I Board adopted these amendments on October 18, 2004.

The Department finds that these amendments confer a benefit on HAWK-I customers by allowing them to access another health plan when the plan they are enrolled in makes substantial changes. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments should be waived.

These amendments became effective on November 1, 2004.

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are adopted.

Amend rule 441—86.6(514I) as follows:

Amend the introductory paragraph as follows:

441—86.6(514I) Selection of a plan. At the time of initial application, if there is more than one participating plan available in the child's county of residence, the applicant shall select the plan in which the applicant wishes to enroll as part of the eligibility process. The enrollee may change plans only at the time of the annual review unless the provisions of subrule 86.7(1) *or paragraph 86.6(2)"a"* apply. The applicant may designate the plan choice verbally or in writing. Form

HUMAN SERVICES DEPARTMENT[441](cont'd)

470-3574, Selection of Plan, may be used for this purpose but is not required.

Amend subrule 86.6(2) as follows:

86.6(2) Period of enrollment. Once enrolled in a plan, the child shall remain enrolled in the selected plan for a period of 12 months unless:

a. There is a substantial change in the provider panel of the health plan originally chosen, as determined by the board. A substantial change means, but is not limited to, loss of a contracted hospital or provider group. When there is another participating health plan available in the child's county of residence, the child may disenroll from the current plan and enroll in the other health plan.

b. The child is disenrolled in accordance with the provisions of rule 441—86.7(514I). If a child is disenrolled from the plan and subsequently reapplies prior to before the end of the original 12-month enrollment period, the child shall be enrolled in the plan from which the child was originally disenrolled unless the provisions of subrule 86.7(1) apply.

[Filed Emergency After Notice 10/19/04, effective 11/1/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3763B**SECRETARY OF STATE[721]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 47.1 and 48A.29, the Secretary of State hereby adopts an amendment to Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

This amendment makes a correction to the procedures for handling absentee ballots cast by voters whose registrations are inactive. Section 6 of 2004 Iowa Acts, Senate File 2269, requires a voter who is required to show identification to send the copy of the identification document with the voter's absentee ballot. The existing rule for voters whose registrations are inactive prohibits the precinct officials from opening the return carrier envelope to look for a voter registration form. In other similar circumstances, voters are instructed to enclose identification documents in the return carrier envelope. This correction harmonizes the two procedures and will have the potential for decreasing the number of absentee voters whose ballots are rejected for purely technical reasons.

In compliance with Iowa Code section 17A.4(2), the Secretary of State finds that notice and public participation are unnecessary because the amendment is necessary to resolve conflicting election procedures.

The Secretary of State also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and this amendment should be effective upon filing with the Administrative Rules Coordinator. This amendment confers a benefit on the public by correcting disparities in absentee balloting procedures.

The Secretary of State adopted this amendment on October 7, 2004.

This amendment became effective on October 12, 2004.

This amendment is intended to implement Iowa Code section 48A.29.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule **721—21.301(53)**, seventh unnumbered paragraph, as follows:

If the registration form is received by the deadline for receipt of absentee ballots as prescribed in Iowa Code section 53.17, and all other legal requirements are met, the ballot shall be counted. If the ballot return carrier envelope is received before the registration form, the envelope shall not be opened but shall be held until the deadline for receipt. If the registration form has not been received by the deadline, the officials of the absentee and special voters precinct board shall open the return carrier envelope. If the registration form is enclosed, and all other legal requirements are met, the ballot shall be counted. However, the affidavit envelope containing the ballot shall not be opened or counted.

[Filed Emergency 10/12/04, effective 10/12/04]
[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3762B**SECRETARY OF STATE[721]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 47.1 and section 49.98 as amended by 2004 Iowa Acts, Senate File 2269, section 21, the Secretary of State hereby adopts amendments to Chapter 26, "Counting Votes," Iowa Administrative Code.

These amendments make technical corrections to procedures in the chapter. Item 1 adds to Chapter 26 a process for precinct election officials in precincts with optical scan voting equipment to report the number of votes marked on ballots that must be rejected because the voter has placed an identifying mark on the ballot. When the precinct officials review the ballots with write-in votes, all other votes on the ballot have already been counted and included in the vote tally. The only way to remove the votes from a disqualified ballot is to subtract the votes from the precinct totals manually. The officials are instructed to tally the votes and to include the report with their tally list. Items 5 and 6 amend the specific examples of this situation to refer the reader to the process described in Item 1.

Items 3 and 4 correct instructions for precinct officials when a write-in vote duplicates a vote for a candidate on the ballot. In the original rule, precinct officials were instructed to duplicate the ballot, omitting the duplicative write-in votes. However, where optical scan voting equipment is used, the votes on the ballot have already been counted. The correct procedure is for the officials to report the duplicative votes with the write-in votes.

The amendment in Item 2 is purely editorial. The examples are incorrectly numbered in the Iowa Administrative Code.

In compliance with Iowa Code section 17A.4(2), the Secretary of State finds that notice and public participation are

SECRETARY OF STATE[721](cont'd)

unnecessary because the amendments are technical corrections of incorrect procedures or merely editorial changes.

The Secretary of State also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on October 20, 2004, when Chapter 26 became effective. These amendments confer a benefit on the public by correcting errors in vote-counting procedures.

The Secretary of State adopted these amendments on October 7, 2004.

These amendments became effective on October 20, 2004.

These amendments are intended to implement Iowa Code section 49.98 as amended by 2004 Iowa Acts, Senate File 2269, section 21.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **721—26.14(50)**, last unnumbered paragraph, to read as follows:

If the ballot has an identifying mark, the precinct election officials shall mark the ballot “Defective due to identifying mark.” ~~and shall~~ *The precinct officials in precincts where optical scan voting equipment is used shall tally the votes on all ballots with identifying marks. All of the precinct election officials shall sign the tally. They shall include the tally of ballots with identifying marks in the tally list. The officials shall return the ballot ballots with identifying marks to the commissioner in the envelope or container for disputed ballots as required by Iowa Code section 50.5.*

ITEM 2. Amend rule 721—26.17(49) to read as follows:

721—26.17(49) Marks not counted. The following marks on ballots shall not count as votes:

1. Hesitation marks. Example:



2. Identifying marks. Example:



3. Random marks. Example:



4. (Marks for which there is no consistent pattern.) Example:



5. Stray marks.

Example:



ITEM 3. Amend rule **721—26.19(49)**, Example D for 26.19(3), 26.19(4) and 26.20(3), last unnumbered paragraph, to read as follows:

This example shows a vote for CANDIDATE 1 and a vote for CANDIDATE 2. Although the write-in vote duplicates the voter's straight party vote, it is clear that the voter has chosen CANDIDATE 1 and CANDIDATE 2. The precinct election officials shall ~~duplicate the ballot following the process in Iowa Code section 52.37(2) include one vote for CANDIDATE 1 and one vote for CANDIDATE 2 in the write-in tally.~~

ITEM 4. Amend subrule 26.20(3) to read as follows:

26.20(3) If a write-in vote duplicates an otherwise correctly cast vote for a candidate whose name appears on the ballot, the write-in vote shall not be counted and the mark in the voting target next to the candidate's name shall be counted as one vote for the candidate. ~~The officials shall duplicate the ballot but omit the write-in votes. The ballot has been read as overvoted for this office, and all other votes have been counted by the tabulator.~~

ITEM 5. Amend rule **721—26.20(49)**, Example B for subrule 26.20(4), last unnumbered paragraph, to read as follows:

This is not a vote. The political identification next to the write-in lines is an identifying mark, as defined in rule 26.14(50). **Do not count any votes on this ballot pursuant to Iowa Code section 39A.4(1)“a”(6) or 49.92.** Follow the procedure in rule 26.14(50).

ITEM 6. Amend rule **721—26.21(49)**, Example B, last unnumbered paragraph, to read as follows:

This example does not show a vote. The initials next to the correction identify the voter. **Do not count any votes on this ballot pursuant to Iowa Code section 39A.4(1)“a”(6) or 49.92.** Follow the procedure in rule 26.14(50).

[Filed Emergency 10/12/04, effective 10/20/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3783B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of 2003 Iowa Code Supplement section 8A.104, the Department of Administrative Services hereby amends Chapters 4 to 9, 25, 26, 40, 50 to 54, 59 to 61, 63, 64, 71, 100, 106, 107, 114, and 116, Iowa Administrative Code.

These amendments update and correct cross references as the final step in the Department's rule conversion process.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3659B**. No oral or written comments were received on the amendments. The amendments are identical to those published under Notice.

The Department adopted these amendments on October 21, 2004.

These amendments are intended to implement 2003 Iowa Code Supplement section 8A.104.

These amendments will become effective December 15, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 4 to 9, 25, 26, 40, 50 to 54, 59 to 61, 63, 64, 71, 100, 106, 107, 114, 116] is being omitted. These amendments are identical to those published under Notice as **ARC 3659B**, IAB 9/15/04.

[Filed 10/22/04, effective 12/15/04]
[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3769B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

This amendment clarifies and strengthens existing secondary mathematics requirements to better prepare junior and senior high school mathematics teachers (grades 7-12). Approved teacher preparation institutions would not need to change their programs significantly.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 21, 2004, as **ARC 3540B**. A public hearing on the amendment was held on August 10, 2004. No one attended the public hearing. One written comment was received from a teacher preparation institution, which indicated overall agreement with the rule change but noted that more clarification was needed on the requirement for coursework in computer programming. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 15, 2004.

The following amendment is adopted.

Amend subrule 14.141(13) as follows:

14.141(13) Mathematics.

a. K-6. Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

b. 7-12. Completion of 24 semester hours in mathematics to include ~~coursework in a linear algebra or an abstract (modern) algebra course, a postcalculus geometry course, a two-course sequence in calculus, a computer programming course, and a probability and statistics course, and coursework in discrete mathematics.~~

[Filed 10/15/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3806B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby adopts amendments to Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," and Chapter 25, "Measurement of Emissions," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 21, 2004, as **ARC 3515B**. A public hearing was held on August 23, 2004. No comments were received at the public hearing.

Written comments were received from the University of Iowa and the U.S. Environmental Protection Agency (EPA) during the public comment period. The submitted comments and the Department's response to the comments are summarized in a responsiveness summary, a copy of which may be obtained from the Department of Natural Resources. These amendments have been modified from those published under Notice of Intended Action as a result of the comments.

In the Notice of Intended Action, the Department had proposed to rescind subrule 22.2(3), which instructs the Department to notify a permit applicant in writing of the issuance or denial of a construction permit within 120 days of receipt of the completed permit application. Since this subrule provides directory language to the Department related to the processing time for construction permit applications and does not provide for issuance of construction permits by default, the Department will not need to rescind subrule 22.2(3).

Subrule 25.1(6) contains requirements related to the reporting of continuous monitoring information. The Department had proposed in the Notice of Intended Action to require all owners or operators required to install a continuous monitoring system or systems to submit a report of emissions quarterly pursuant to the provisions of Appendix P of 40 CFR Part 51. This could be construed as a relaxation of existing

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reporting requirements for facilities subject to more stringent applicable reporting requirements. The change to subrule 25.1(6) has been modified to remove reference to Appendix P of 40 CFR Part 51, and language has been added stating that compliance with more stringent reporting requirements will apply if applicable. Subrule 25.1(6) now reads as follows:

“25.1(6) Reporting of continuous monitoring information. The owner or operator of any facility required to install a continuous monitoring system or systems shall provide quarterly reports to the director, no later than 30 calendar days following the end of the calendar quarter, on forms provided by the director. This provision shall not excuse compliance with more stringent applicable reporting requirements. All periods of recorded emissions in excess of the applicable standards, the results of all calibrations and zero checks and performance evaluations occurring during the reporting period, and any periods of monitoring equipment malfunctions or source upsets and any apparent reasons for these malfunctions and upsets shall be included in the report.”

Items 1 and 2 modify two existing exemptions from construction permitting. Paragraph 22.1(2)“b” currently exempts fuel burning equipment used for indirect heating or cooling with a capacity of less than 1 million Btu per hour heat input per unit, and paragraph 22.1(2)“j” currently exempts residential heaters, cookstoves, or fireplaces. These modifications are intended to address frequent inquiries to Department field office staff by residents regarding whether materials such as seed corn can be burned in residential heating units. The field office staff also receive comments regarding the emissions of toxins that occur when treated seeds or pellets are burned. Many manufacturers already recommend against the burning of treated seeds or pellets in heating units. Treated seeds and pellets frequently contain captan and other pesticides that will release low levels of hydrochloric acid and thiophosgene (mustard) gas when heated. These emissions are most likely to occur at start-up and shutdown, when combustion temperatures are lower, or if the heating unit is damped down.

The changes allow the burning of seeds, pellets, and other vegetative matter in the emission units covered by these two exemptions, but only when the seeds, pellets and vegetative matter are untreated. Item 2 also restricts the burning of wood in residential heaters, cookstoves, or fireplaces to untreated wood. The burning of wood in fuel burning equipment used for indirect heating or cooling, with a capacity of less than 1 million Btu per hour input per unit, is already limited to untreated wood.

Item 3 corrects a spelling error in paragraph “u” of subrule 22.1(2).

Item 4 adds a comma in the introductory paragraph of subrule 22.3(3).

Items 5, 6, and 7 reference the most recent date for which changes to 40 Code of Federal Regulations, Parts 60, 61, and 63, respectively, were published. The previous adoption by reference of 40 CFR Part 503 has been deleted from Item 5 and moved to Item 6. Part 503 pertains to standards for the use or disposal of sewage sludge and refers to 40 CFR Part 61, not 40 CFR Part 60, beryllium and mercury standards for the incineration of sludge.

Item 8 updates paragraph “ay” of subrule 23.1(4) to include reference to additional processes that were added by EPA on July 12, 2002, in 40 CFR Part 63, Subpart YY (Generic MACT).

Item 9 incorporates by reference recently promulgated federal national emission standards for hazardous pollutants (NESHAPs). There are 15 “new” NESHAPs.

Item 10 removes references to boiler #6 at the Muscatine Power and Water facility from subparagraph 23.3(2)“b”(5). This boiler was permanently removed from service at the facility on September 17, 1985.

Items 11, 12, 13 and 14 amend four subrules in Chapter 25, “Measurement of Emissions.” These amendments clarify that the maintenance of records of continuous monitors, reporting of continuous monitoring information, exemptions from continuous monitoring requirements, and requests for extensions of time to install monitoring equipment are applicable to all owners and operators who are required to install continuous monitors, not just owners or operators of coal-fired steam generating units or sulfuric acid plants.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments shall become effective December 15, 2004.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 22, 23, 25] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3515B**, IAB 7/21/04.

[Filed 10/22/04, effective 12/15/04]
[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3805B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 14, 2004, as **ARC 3282B**. Four public hearings were held, with notice of the hearings sent to various individuals, organizations, associations and interest groups and to statewide news network organizations. Comments were received from 26 persons and organizations. A responsiveness summary addressing the comments may be obtained from the Department of Natural Resources.

The adopted amendments have been modified from those published under Notice of Intended Action, including changes to Chapter 61 and to the rule-referenced document “Cold Water Use Designation Assessment Protocol” (hereafter, “the protocol”). The modifications were made after all comments from the public hearings, the Environmental Protection Agency (EPA), and Environmental Protection Commission (EPC) were assessed.

The changes to Chapter 61 relative to the Notice are as follows:

1. Modification of the nomenclature for cold water aquatic life stream use designations. The labels of “Tier I” and “Tier II” as proposed in the Notice to indicate the two

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levels of designated uses are changed to "Type 1" and "Type 2." This change was made to avoid confusion with the EPA terms of "Tier I," "Tier II," and "Tier III" associated with EPA's antidegradation guidance and regulations.

2. Removal of the chemical criteria for Class B(CW2). These criteria as proposed in the Notice are no longer included in these amendments based on comments from the Environmental Protection Agency. The chemical criteria for Class B(CW2) will be established under a future rule-making effort.

3. Modifications to the definition of the "Cold water aquatic life—Type 2 (Class "B(CW2)")" designated use. The revised definition reads as follows: "Waters that include small, channeled streams, headwaters, and spring runs that possess natural cold water attributes of temperature and flow. These waters usually do not support consistent populations of trout (*Salmonidae* family), but may support associated vertebrate and invertebrate organisms." The Notice identified Class B(CW2) streams as only those streams possessing cold water attributes that contribute to the base flow of a Class B(CW1) stream and did not account for the streams that contribute to the flow of streams other than Class B(CW1). Thus, a Class B(CW2) stream can be so designated regardless of the classification of the water body to which it flows. Also, the term "headwaters" is included in the revised definition based on a motion passed by the EPC.

The changes to the protocol relative to the Notice are as follows:

1. Modification to the language for the temperature criteria under Sections II.A(2) and II.B(2). The original protocol stated: "The maximum stream water temperature during mid-May through mid-September does not exceed 75 degrees Fahrenheit, as documented by continuous monitoring during this period for three, not necessarily consecutive, years." The final protocol was modified to state the following: "The maximum stream water temperature during mid-May through mid-September does not exceed 75 degrees Fahrenheit under normal stream conditions, as documented by continuous monitoring during this period for three, not necessarily consecutive, years." This change provides clarification for the conditions under which the temperature measurements should be taken.

2. Modification to language for the flow criterion in Section II.A(2). The original protocol stated: "Flow: The minimum stream flow is at least 0.3 cubic feet per second." The protocol was modified to state the following: "Flow: The minimum stream flow is at least 0.3 cubic feet per second during years with normal precipitation." This change provides clarification for the conditions under which the "minimum stream flow" should be measured.

3. Addition of a justification for Class B(CW2) designation. The following criterion is added to Section II.B(2) of the protocol: "A stream segment found not to be conducive to natural reproduction of trout or found to have an absence of the early life stages of trout, but has the evidence of non-aberrational populations of adult trout as determined by a qualified fisheries biologist." This addition is made to afford protection for non-aberrational adult trout populations not otherwise protected by Class B(CW1) or Class B(CW2) criteria.

4. Addition of language to provide administrative guidance. The protocol now includes Section III.G, Administrative Action. This section is added to provide general descriptions of administrative action processes the Department could use to ensure protection of non-aberrational populations of adult trout.

5. Addition of two appendices. The protocol now includes Appendix D, Definitions, which provides explanation of specific terms used throughout the protocol, and Appendix E, Field Assessment Flow Chart, which describes in a flow chart format how to use the protocol for use designation assessments. These appendices are added to provide additional clarity and promote better understanding of how the protocol will be implemented.

With the inclusion of the modifications described above, the adopted amendments incorporate changes to the Commission's Water Quality Standards (WQS) as summarized below:

1. Change the current Class B(CW) use designation from a single use designation of Cold Water Aquatic Life to two use designations as follows: Cold water aquatic life—Type 1 (Class "B(CW1)"), and Cold water aquatic life—Type 2 (Class "B(CW2)").

2. Incorporate by reference the document entitled "Cold Water Use Designation Assessment Protocol," which describes the approach to be followed in assessing the cold water uses of water bodies.

3. Apply the Sensitive Life Stage Ammonia Chronic criteria year-round to the Class B(CW1) use designation.

4. Apply the Sensitive Life Stage Ammonia Chronic criteria seasonally (April 1 through September 30) to the Class B(CW2) use designation to protect the resident nontrout species during their spawning period.

5. Establish Dissolved Oxygen criteria for the two new use designations, Class B(CW1) and Class B(CW2), at the same levels that are associated with the existing Class B(CW) use designation.

6. Correct Table 2, Criteria for Dissolved Oxygen, which incorrectly expresses values as milligrams per liter as N, to express values as milligrams per liter.

7. Transfer the existing Class B(CW) designated waters to the new Class B(CW1) use designation.

8. Change the cold water use designation in the heading of Table 1, Criteria for Chemical Constituents, from "B(CW)" to "B(CW1)" and add a column for "B(CW2)."

9. Change the cold water use designation in the heading of Table 3a, Acute Criterion for Ammonia in Iowa Streams, from "Class B(CW) Cold Water" to "Class B(CW1) & B(CW2)."

Additional information on Iowa's Water Quality Standards can be found on the Department's Web site at <http://www.state.ia.us/epd/wtresrce/wquality/index.htm>.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

These amendments will become effective December 15, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule **61.3(1)**, paragraph "b," subparagraph (4), as follows:

(4) Cold water aquatic life—*Type 1* (Class "B(CW1)"). Waters in which the temperature, and flow, and other habitat characteristics are suitable for the maintenance of a wide variety of cold water species, including reproducing and nonreproducing populations of trout (*Salmonidae* family) and associated aquatic communities.

ITEM 2. Amend subrule **61.3(1)**, paragraph "b," by renumbering subparagraphs (5) to (10) as (6) to (11) and adopting new subparagraph (5) as follows:

(5) Cold water aquatic life—*Type 2* (Class "B(CW2)"). Waters that include small, channeled streams, headwaters, and spring runs that possess natural cold water attributes of

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temperature and flow. These waters usually do not support consistent populations of trout (Salmonidae family), but may support associated vertebrate and invertebrate organisms.

ITEM 3. Amend subrule **61.3(3)**, paragraph “b,” introductory paragraph, as follows:

b. Class “B” waters. All waters which are designated as Class B(CW1), B(CW2), B(WW), B(LR), or B(LW) are to be protected for wildlife, fish, aquatic and semiaquatic life. The following criteria shall apply to all Class “B” waters designated in subrule 61.3(5).

ITEM 4. Amend numbered paragraph **61.3(3)“b”(6)“1”** as follows:

1. For all Class B(CW1) waters, the early life stage will be year-round.

ITEM 5. Amend subrule **61.3(3)**, paragraph “b,” subparagraph (6), by renumbering numbered paragraphs “2” to “4” as “3” to “5” and adopting new numbered paragraph “2” as follows:

2. For all Class B(CW2) waters, the early life stage will begin on April 1 and last through September 30.

ITEM 6. Amend subrule **61.3(3)**, header of Table 1, Criteria for Chemical Constituents, as follows:

Use Designations

| Parameter | B(CW1) | B(CW2) | B(WW) | B(LR) | B(LW) | C |
|-----------|--------|--------|-------|-------|-------|---|
|-----------|--------|--------|-------|-------|-------|---|

ITEM 7. Amend subrule **61.3(3)**, Table 1, Criteria for Chemical Constituents, footnote (d), as follows:

(d) Class B numerical criteria are for pentachlorophenol a function of pH using the equation: Criterion ($\mu\text{g/l}$) = $e^{[1.005(\text{pH}) - x]}$, where $e = 2.71828$ and x varies according to the following table:

| | B(CW1) | B(CW2) | B(WW) | B(LR) | B(LW) |
|---------|--------|--------|-------|-------|-------|
| Acute | 3.869 | — | 4.869 | 4.869 | 4.869 |
| Chronic | 4.134 | — | 5.134 | 5.134 | 5.134 |

ITEM 8. Amend subrule **61.3(3)**, Table 2, Criteria for Dissolved Oxygen, as follows:

TABLE 2. Criteria for Dissolved Oxygen

(all values expressed in milligrams per liter as-N)

| | B(CW1) | B(CW2) | B(WW) | B(LR) | B(LW) |
|---|--------|--------|-------|-------|-------|
| Minimum value for at least 16 hours of every 24-hour period | 7.0 | 7.0 | 5.0 | 5.0 | 5.0* |
| Minimum value at any time during every 24-hour period | 5.0 | 5.0 | 5.0 | 4.0 | 5.0* |

*applies only to the upper layer of stratification in lakes

ITEM 9. Amend subrule **61.3(3)**, header of Table 3a, Acute Criterion for Ammonia in Iowa Streams, as follows:

| Acute Criterion, mg/l as N (or Criterion Maximum Concentration, CMC) | |
|---|-------------------------------------|
| pH | Class B(WW), B(LR) & B(LW) |
| | Class B(CW1) & B(CW2) Cold Water |

ITEM 10. Amend subrule **61.3(5)** by striking the date “May 19, 2004” and inserting in lieu thereof “December 15, 2004.”

ITEM 11. Adopt new subrule 61.3(6) as follows:

61.3(6) Cold water use designation assessment protocol. The department hereby incorporates by reference “Cold Water Use Designation Assessment Protocol,” effective December 15, 2004. This document may be obtained on the department’s Web site at <http://www.state.ia.us/epd/wtresrce/wquality/index.htm>.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3786B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 1, “Iowa Ethics and Campaign Disclosure Board,” Iowa Administrative Code.

The amendment clarifies the procedural requirement for a member of the Iowa Ethics and Campaign Disclosure Board to sell goods or services to a person subject to the regulatory authority of the Board.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3645B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on October 21, 2004.

This amendment is intended to implement Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179, section 5.

This amendment will become effective December 15, 2004.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [1.7] is being omitted. This amendment is identical to that published under Notice as **ARC 3645B**, IAB 9/15/04.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3788B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

The amendments reflect the renumbering of the Board's current rules on the imposition of civil penalties for late-filed campaign disclosure reports.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3646B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on October 21, 2004.

These amendments are intended to implement Iowa Code Supplement section 68B.32A(8).

These amendments will become effective December 15, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 4.11(2) as follows:

4.11(2) Failure to notify board. A person that fails to notify the board at the time of filing a voluntary statement of organization that the \$750 financial filing threshold was not exceeded shall file a disclosure report on or before each appropriate due date until the person notifies the board that the \$750 threshold was not exceeded. The failure to file a disclosure report subjects the person to civil penalties pursuant to ~~351—Chapter 10 rule 351—4.59(68B)~~.

ITEM 2. Amend subrule 4.27(5) as follows:

4.27(5) Failure to file. A person that fails to timely file an independent expenditure statement shall be subject to the imposition of civil penalties pursuant to ~~351—subrule 4.27(7) 351—subrule 4.59(7)~~.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3785B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The amendment reflects the current information that executive branch lobbyists disclose on their executive branch lobbyist registration statements. The amendment also reflects the upcoming implementation of the Board's enhanced electronic filing system that will now allow executive branch lobbyists to file registrations via the Internet.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3647B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on October 21, 2004.

This amendment is intended to implement Iowa Code Supplement section 68B.36(1).

This amendment will become effective December 15, 2004.

The following amendment is adopted.

Rescind subrules 8.7(2) and 8.7(3) and adopt the following **new** subrules in lieu thereof:

8.7(2) Place of filing. Executive branch lobbyist registration statements shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Registration statements may also be filed by fax at (515)281-3701 or electronically through the board's Web site at www.iowa.gov/ethics.

8.7(3) Information required. The following information shall be disclosed on the executive branch lobbyist registration statement:

a. The lobbyist's name and business address. The lobbyist's residential address and E-mail address are optional. The lobbyist shall indicate whether mail should be sent to the lobbyist's office or residence.

b. A general description of the issues or interests that the lobbyist might follow and a list of agencies or offices that may be lobbied.

c. Whether or not the lobbyist is a governmental official representing the official position of the lobbyist's department, agency, or governmental entity.

d. Each of the lobbyist's clients, including the name and address of the client, a contact person and job title, and the contact person's telephone number. An E-mail address is optional.

e. The lobbyist's signature and date of filing. Registration statements filed electronically through the board's Web site are deemed signed and dated when filed.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3787B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The amendment clarifies the retention and availability of reports and statements filed with the Board by executive branch lobbyists and executive branch lobbyist clients.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3644B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on October 21, 2004.

This amendment is intended to implement Iowa Code Supplement section 68B.32A(4).

This amendment will become effective December 15, 2004.

The following amendment is adopted.

Adopt the following **new** rule 351—8.20(68B):

351—8.20(68B) Retention and availability of filed forms.

8.20(1) Public record. All forms filed under this chapter are public records and shall be available in the board office for inspection and copying. A filed form shall be retained by

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

the board for a period of at least five years from the date the form was filed.

8.20(2) Internet access. Forms filed under this chapter shall be accessible for viewing via the board's Web site at www.iowa.gov/ethics as follows:

a. A list of registered executive branch lobbyists and executive branch lobbyist clients for the current calendar year and the two previous calendar years.

b. An executive branch periodic lobbyist report for a period of at least three years from the report due date.

c. An executive branch lobbyist client report for a period of at least three years from the report due date.

d. A reception reporting form for a period of at least three years from the date the form was filed.

This rule is intended to implement Iowa Code Supplement section 68B.32A(4).

[Filed 10/22/04, effective 12/15/04]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3767B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, House File 2134, section 7, the Department of Human Services amends Chapter 36, "Facility Assessments," and Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

These amendments expand the assessment fee for intermediate care facilities for the mentally retarded to apply to the State Resource Centers at Woodward and Glenwood, which were previously excluded. The fee is set at 6 percent of the total annual revenue of the facility for the preceding fiscal year. Funds generated from the assessment are credited to the state medical assistance appropriation. These funds are then used for Medicaid service payments, which draw down additional federal matching funds.

The fee is an allowable cost on a facility's Medicaid cost report. These amendments adjust the Medicaid reimbursement rates for these facilities to reflect the increased cost. Any amount attributable to the fee that would otherwise be the liability of the county shall be paid by the state. The fee is retroactive to October 1, 2003, as permitted by legislation.

These amendments also correct a cross reference on appeals of county decisions.

These amendments do not provide for waivers in specified situations because all affected facilities should be treated uniformly under the law.

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on September 1, 2004, as **ARC 3601B**. Notice of Intended Action was published as **ARC 3605B** on the same date to solicit comments. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 13, 2004.

These amendments shall become effective December 15, 2004, at which time the Adopted and Filed Emergency amendments are rescinded.

These amendments are intended to implement 2004 Iowa Acts, House File 2134, section 3, and Iowa Code section 249A.21 as amended by 2004 Iowa Acts, House File 2134, sections 6 and 7.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [36.1, 36.2(4), 36.3(1), 82.5(13), 82.7(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 3605B** and Adopted and Filed Emergency as **ARC 3601B**, IAB 9/1/04.

[Filed 10/14/04, effective 12/15/04]

[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3768B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6 and 2004 Iowa Acts, Senate File 2298, section 112, subsection 6, the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

These amendments allow a deduction for excess medical expense when a Food Assistance recipient receives a Medicare prescription drug discount card or credit.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 authorizes prescription drug discount cards that provide Medicare beneficiaries with negotiated prices that should be lower than the regular price of prescription drugs. In addition, from June through December 2004, Medicare is providing a \$600 subsidy to Medicare beneficiaries whose incomes are not more than 135 percent of the poverty level and who do not have certain other drug coverage. An additional subsidy of up to \$600 will be provided in calendar year 2005.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 specifies that these Medicare benefits shall not be taken into account in determining a person's benefits under any other federal program. The U.S. Department of Agriculture has determined that allowing households to claim only their out-of-pocket prescription costs, and not the prediscount costs, would take the benefits of the discount card or credit into account when determining the household's Food Assistance benefits.

Federal guidance offered three options for budgeting the value of the subsidy. The Department has chosen the option of allowing a prorated standard allowance to recognize the value of the discount card or credit. The household may verify actual costs if actual costs would result in a higher deduction than the standard allowance. This option was chosen based on what would be the most consistent, provide a benefit to the household for the longest time, and be the least error-prone to administer.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specified situations because Food Assistance policy is based on federal legislation, which the Department does not have authority to waive.

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on September 1, 2004, as **ARC 3604B**. Notice of Intended Action was published as **ARC 3607B** on the same date to solicit comments. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 13, 2004.

These amendments shall become effective December 15, 2004, at which time the Adopted and Filed Emergency amendments are rescinded.

These amendments are intended to implement Iowa Code section 234.12 and Section 1860D-31(g)(6) of the Social Security Act as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, 42 U.S.C. 1395w-141(g)(6).

The following amendments are adopted.

Amend subrule 65.8(7) as follows:

65.8(7) Excess medical expense deduction.

a. Notwithstanding anything to the contrary in these rules or regulations, at certification, households having a member eligible for the excess medical expense deduction shall be allowed to provide a reasonable estimate of the member's medical expenses anticipated to occur during the household's certification period.

(1) The estimate may be based on available information about the member's medical condition, public or private medical insurance coverage, and current verified medical expenses.

(2) Households giving an estimate shall not be required to report or verify changes in medical expenses that were anticipated to occur during the certification period.

b. Effective beginning June 1, 2004.

(1) A household member who receives the Medicare prescription drug credit shall be allowed a standard medical expense of \$50 per month for the credit until the full value of the annual credit is realized.

(2) A household member who has a Medicare prescription drug discount card shall be allowed a standard medical expense of \$23 per month for the discount.

(3) These standard medical expenses shall be added to any other eligible monthly out-of-pocket medical expenses.

c. Effective beginning June 1, 2004, a household member with a Medicare drug discount card may claim actual prediscount prescription drug expenses rather than use the standards if the expense is greater than the standards. To claim actual expenses, the person must verify either the prediscount expense or the discounted expense. If the discounted expense is verified, then prescription costs are multiplied by a discount factor of 1.25 to determine the prediscount expense.

[Filed 10/14/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3766B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments increase by 7.3 percent the premiums assessed for recipients in the "Medicaid for employed people with disabilities" coverage group. Premiums are assessed on a sliding scale to recipients whose gross income exceeds 150 percent of the federal poverty guidelines. Iowa Code section 249A.3 requires the maximum premium to be commensurate with the cost of state employees' group health insurance. These amendments bring the premium schedule in line with the changes in state employees' insurance costs that took effect in January 2004.

These amendments do not provide for waivers in specified situations because all recipients should be subject to the same premium collection activity based on similar income tests. However, recipients may request a waiver of this policy under rule 441—1.8(17A,217).

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on August 4, 2004, as **ARC 3579B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 13, 2004.

These amendments shall become effective on January 1, 2005.

These amendments are intended to implement Iowa Code section 249A.3, subsection 2, paragraph "a."

The following amendments are adopted.

Amend subparagraph **75.1(39)“b”(1)** as follows:

(1) Premiums shall be assessed as follows:

| INCOME OF THE ELIGIBLE INDIVIDUAL ABOVE: | MONTHLY PREMIUM |
|---|--------------------|
| 150% of Federal Poverty Level | \$22 24 |
| 174% of Federal Poverty Level | \$42 45 |
| 198% of Federal Poverty Level | \$62 67 |
| 222% of Federal Poverty Level | \$84 87 |
| 246% of Federal Poverty Level | \$104 108 |
| 270% of Federal Poverty Level | \$124 130 |
| 294% of Federal Poverty Level | \$144 151 |
| 318% of Federal Poverty Level | \$164 173 |
| 342% of Federal Poverty Level | \$180 193 |
| 366% of Federal Poverty Level | \$200 215 |
| 390% of Federal Poverty Level | \$224 237 |
| 438% of Federal Poverty Level | \$247 265 |
| 486% of Federal Poverty Level | \$273 293 |
| 534% of Federal Poverty Level | \$299 321 |

HUMAN SERVICES DEPARTMENT[441](cont'd)

| INCOME OF THE ELIGIBLE INDIVIDUAL ABOVE: | MONTHLY PREMIUM |
|--|-----------------|
| 582% of Federal Poverty Level | \$325 349 |
| 632% of Federal Poverty Level | \$355 381 |

[Filed 10/14/04, effective 1/1/05]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3765B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 95, "Collections," Iowa Administrative Code.

These amendments change the rules for pursuing an offset against federal income tax refunds and federal nontax payments to recover delinquent child support. The amendments:

- Modify the criteria for submitting assigned past-due support by removing the requirement that the support be delinquent for three months, in compliance with new federal regulations. Elimination of the three-month waiting period means less delay in submitting delinquent support for collection through federal offsets.

- Implement a federal option to combine amounts owed by the same obligor in more than one case to meet the dollar thresholds for federal offset of \$150 for delinquent support assigned to the government and \$500 for delinquent support due to families. This change will allow families and the government a better opportunity to secure delinquent support. Collection of past-due support secures funding for the Family Investment Program and support to families.

These amendments do not provide for waivers in specified situations because the Department is enforcing orders for support according to allowable criteria added to federal law. Other provisions of rule 441—95.7(252B) already provide opportunities for a person to appeal an offset or to request a review.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on August 4, 2004, as **ARC 3578B** and an Amended Notice of Intended Action was published on August 18, 2004, as **ARC 3597B**. The Department scheduled seven public hearings to receive comments on these amendments. No one attended the hearings, and the Department received no comments on the proposed amendments. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 13, 2004.

These amendments shall become effective on January 1, 2005.

These amendments are intended to implement Iowa Code section 252B.5.

The following amendments are adopted.

Amend rule 441—95.7(252B) as follows:

Amend subrule 95.7(1) as follows:

95.7(1) Amount of assigned support. If the delinquent support is assigned to the department, the amount of delin-

quent support shall be at least \$150, and the support shall have been delinquent for three months calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least \$50.

Amend subrule 95.7(2), introductory paragraph, as follows:

95.7(2) Amount of nonassigned support. If delinquent support is not assigned to the department, the claim shall be made if the amount of delinquent support is at least \$500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least \$50.

[Filed 10/14/04, effective 1/1/05]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3800B**PHARMACY EXAMINERS BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 3, "Pharmacy Technicians," Iowa Administrative Code.

The amendments require that a licensed health care provider who assists in the technical functions of the practice of pharmacy, except a pharmacist-intern, register as a pharmacy technician. The amendments authorize the Executive Secretary/Director of the Board to deny, for specified reasons, an application for registration as a pharmacy technician and provide for appeal to the Board for reconsideration of an application within 30 days of notice of denial by the Executive Secretary/Director.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 31, 2004, Iowa Administrative Bulletin as **ARC 3241B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the July 13, 2004, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on December 15, 2004.

These amendments are intended to implement Iowa Code section 155A.6.

The following amendments are adopted.

ITEM 1. Amend rule 657—3.3(155A) by adding the following new subrule 3.3(1) and renumbering current subrules **3.3(1)** through **3.3(3)** as **3.3(2)** through **3.3(4)**:

3.3(1) Licensed health care provider. Except as provided in rule 3.4(155A), a licensed health care provider whose registration or license is in good standing with the licensee's professional licensing board and who assists in the technical functions of the practice of pharmacy shall be required to register as a pharmacy technician pursuant to these rules.

ITEM 2. Amend rule 657—3.4(155A) as follows:

PHARMACY EXAMINERS BOARD[657](cont'd)

657—3.4(155A) Registration not required. A pharmacist-intern or a licensed health care provider whose registration or license is in good standing and who assists in the technical functions of the practice of pharmacy is not required to register as a pharmacy technician.

ITEM 3. Amend rule 657—3.29(155A) as follows:

657—3.29(155A) Denial of registration. The board executive secretary/director or designee may deny an application for registration as a pharmacy technician for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

An individual whose application for registration as a pharmacy technician is denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3801B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 6, "General Pharmacy Practice," Iowa Administrative Code.

The amendment identifies requirements for dual labeling of a prescription drug container when the pharmacist dispenses a brand name drug product for a generic product ordered by the prescriber. In addition, the proposed amendment eliminates the requirement to use specific language on the label of a prescription drug container to dually identify a generic drug product substituted for a brand name product ordered by the prescriber.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 31, 2004, Iowa Administrative Bulletin as **ARC 3242B**. The adopted amendment is identical to that published under Notice.

The amendment was approved during the July 13, 2004, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on December 15, 2004.

This amendment is intended to implement Iowa Code sections 124.301, 155A.28, and 155A.32.

The following amendment is adopted.

Amend subrule **6.10(1)**, paragraph "g," as follows:

g. Unless otherwise directed by the prescriber, the label shall bear the name, strength, and quantity of the drug dispensed.

(1) If a pharmacist selects an equivalent drug product for a brand name drug product prescribed by a practitioner, the prescription container label shall identify the generic drug

and may identify the brand name drug for which the selection is made. ~~The dual identification allowed under this paragraph shall take the form of the following statement on the drug container label, such as "(generic name) Generic for (brand name product)."~~

(2) *If a pharmacist selects a brand name drug product for a generic drug product prescribed by a practitioner, the prescription container label shall identify the brand name drug product dispensed and may identify the generic drug product ordered by the prescriber, such as "(brand name product) for (generic name)";*

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3794B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendments clarify the requirements for transmission of a prescription drug order to the pharmacy by an authorized prescriber's agent. In addition, the amendments prohibit the dispensing of a prescription drug if the pharmacist knows or should have known that the order was issued solely on the basis of an Internet questionnaire or telephone consultation and without a valid preexisting patient-practitioner relationship.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 31, 2004, Iowa Administrative Bulletin as **ARC 3243B**. The adopted amendments differ from those published under Notice. The proposed change in subrule 8.19(2) that would have limited transmittal by a practitioner's agent to facsimile transmission was not adopted, thereby permitting a practitioner's agent to transmit a practitioner's order by any electronic transmission method.

The amendments were approved during the July 13, 2004, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on December 15, 2004.

These amendments are intended to implement Iowa Code sections 124.308, 155A.23, 155A.27, and 205.3.

The following amendments are adopted.

ITEM 1. Amend subrule 8.19(2) as follows:

8.19(2) Transmitting agent. The prescribing practitioner may authorize an agent to transmit to the pharmacy a prescription drug order or medication order orally or by electronic transmission provided that the ~~identity~~ *name* of the transmitting agent is included in the order.

ITEM 2. Amend subrule 8.19(4) as follows:

8.19(4) Legitimate purpose. The pharmacist shall ensure that the prescription drug or medication order, regardless of the means of transmission, has been issued for a legitimate

PHARMACY EXAMINERS BOARD[657](cont'd)

medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice. *A pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship.*

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3795B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76, 155A.6, and 272C.3, the Board of Pharmacy Examiners hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment adds a registered pharmacist-intern to the list of those to whom an authorized pharmacist may delegate the administration of influenza and pneumococcal vaccines to adults. An authorized pharmacist is required to provide direct personal supervision when delegating such administration to a registered pharmacist-intern. The Board of Medical Examiners adopted an amendment to 653—subrule 13.3(1), paragraph "c," which was published in the June 9, 2004, Iowa Administrative Bulletin as **ARC 3421B**.

The Board of Medical Examiners and the Board of Pharmacy Examiners jointly regulate the area of practice addressed by this rule. Neither Board feels it necessary or expedient to provide for waiver of the rule. Any deviation from the requirements of the rule would need to be negotiated and determined by both Boards.

Notice of Intended Action was published in the May 12, 2004, Iowa Administrative Bulletin as **ARC 3340B**. The adopted amendment is identical to that published under Notice.

The amendment was approved during the July 13, 2004, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on December 15, 2004.

This amendment is intended to implement Iowa Code sections 147.76, 155A.3, 155A.4, 155A.6, and 272C.3.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [8.33(1)"c"] is being omitted. This amendment is identical to that published under Notice as **ARC 3340B**, IAB 5/12/04.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3796B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 124.301, the Board of Pharmacy Examiners hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment adds reverse distributors to the list of business entities required to maintain a registration pursuant to the Iowa Uniform Controlled Substances Act.

This rule does not provide for waiver or variance. Iowa Code section 124.302 requires registration of every person who distributes controlled substances within Iowa.

Notice of Intended Action was published in the March 31, 2004, Iowa Administrative Bulletin as **ARC 3244B**. The adopted amendment is identical to that published under Notice.

The amendment was approved during the July 13, 2004, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on December 15, 2004.

This amendment is intended to implement Iowa Code section 124.302.

The following amendment is adopted.

Amend rule **657—10.1(124)**, first unnumbered paragraph, as follows:

Manufacturers, distributors, *reverse distributors*, importers and exporters, individual practitioners (M.D., D.O., D.D.S., D.V.M., D.P.M., O.D., P.A., resident physician, advanced registered nurse practitioner), pharmacies, hospitals and animal shelters, care facilities, researchers and dog trainers, analytical laboratories, and teaching institutions shall register on forms provided by the board office. To be eligible to register, individual practitioners must hold a current, active license in good standing, issued by the appropriate Iowa professional licensing board, to practice their profession in Iowa.

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3797B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 21, "Electronic Data in Pharmacy Practice," Iowa Administrative Code.

The amendments clarify the meaning of a computer-to-computer transmission of a prescription drug order and require that only an authorized prescriber initiate a computer-to-computer transmission of a prescription drug order. The amendments also provide that, once the prescriber initiates a computer-to-computer transmission of a prescription drug

PHARMACY EXAMINERS BOARD[657](cont'd)

order, the actual transmission may be completed by either the prescriber or the prescriber's authorized agent.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 31, 2004, Iowa Administrative Bulletin as **ARC 3245B**. The adopted amendments differ from those published under Notice. A sentence was added to subrule 21.8(3) to further clarify that, once the prescriber initiates the electronic prescription drug order, the prescriber may authorize an agent to complete the computer-to-computer transmission of the prescription drug order.

The amendments were approved during the July 13, 2004, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on December 15, 2004.

These amendments are intended to implement Iowa Code sections 124.308 and 155A.27.

The following amendments are adopted.

ITEM 1. Amend rule 657—21.8(124,155A), introductory paragraph, as follows:

657—21.8(124,155A) Computer-to-computer transmission of a prescription. Prescription drug orders, excluding orders for controlled substances, may be communicated directly from a prescriber's computer to a pharmacy's computer *prescription processing system* by electronic transmission.

ITEM 2. Amend subrule 21.8(3) as follows:

21.8(3) Who may transmit. Orders shall be ~~transmitted~~ *initiated* only by an authorized prescriber ~~or the prescriber's agent~~ and shall include the prescriber's electronic signature. *Orders may be transmitted by the prescriber or the prescriber's agent.*

[Filed 10/22/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3764B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby adopts amendments to Chapter 42, "Colleges for Chiropractic Physicians," Iowa Administrative Code.

These amendments adopt a definition for "60-minute hour" and rescind rule 645—42.2(151) and replace it with a new rule 645—42.2(151).

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 1, 2004, as **ARC 3616B**. A public hearing was held on September 22, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Public comments were received to request that the word "classroom" associated with physiotherapy coursework be deleted, and not to mandate the physiotherapy coursework but leave it as an elective and add some general language regarding competency. Additionally, the Board requested that the words "each of" be deleted in subparagraph 42.2(1)"b"(3), and the Assistant Attorney General

requested that the Board modify the "60-minute hour" definition.

The Board deleted the word "classroom" associated with physiotherapy coursework, deleted the words "each of" in subparagraph 42.2(1)"b"(3), and modified the "60-minute hour" definition in response to comments received.

These amendments will become effective December 15, 2004.

These amendments are intended to implement Iowa Code chapter 151.

The following amendments are adopted.

ITEM 1. Amend rule **645—42.1(151)** by adopting the following **new** definition in alphabetical order:

"60-minute hour" means at least 50 minutes of resident attendance with no more than 10 minutes for note taking and breaks.

ITEM 2. Rescind rule 645—42.2(151) and adopt the following **new** rule in lieu thereof:

645—42.2(151) Board-approved chiropractic colleges.

42.2(1) Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic examiners that the chiropractic program meets the following requirements:

a. The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

b. The core curriculum meets the requirements of the CACCE standards and, in addition:

(1) Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

(2) Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and

(3) Includes a minimum of 120 hours of physiotherapy coursework with a clinical practical component on the procedures covered in the course.

c. The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic examiners.

d. Transcripts include entries for all completed coursework.

42.2(2) Through July 1, 2005, conditional approval may be given to a college if:

a. The college is not fully accredited by the CACCE but meets all other requirements for approval in rule 645—42.2(151), except for the physiotherapy component in subparagraph 42.2(1)"b"(3); and

b. The physiotherapy coursework appears as a transfer credit on a transcript from an approved chiropractic college; and

c. The physiotherapy coursework includes a clinical practical application which meets the same standards as the coursework offered for the board-approved chiropractic college's own students.

[Filed 10/13/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3781B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Nursing Home Administrators hereby amends Chapter 141, "Licensure of Nursing Home Administrators," and Chapter 145, "Fees," Iowa Administrative Code.

These amendments change the appointment period for a provisional administrator to one year from six months as provided in the Iowa Code, adopt a new license renewal rule which includes a mandatory reporter training requirement, and add provisions for duplicate and reissued certificate and wallet cards as well as associated fees.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 18, 2004, as **ARC 3582B**. A public hearing was held on September 14, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

These amendments will become effective December 15, 2004.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [141.6, 141.9, 141.12 to 141.14, 145.1(5) to 145.1(10)] is being omitted. These amendments are identical to those published under Notice as **ARC 3582B**, IAB 8/18/04.

[Filed 10/21/04, effective 12/15/04]
[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3772B

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code section 99F.4, the Racing and Gaming Commission hereby adopts an amendment to Chapter 5, "Track and Excursion Boat Licensees' Responsibilities," Iowa Administrative Code.

This amendment is a result of 2004 Iowa Acts, House File 2302, and defines a "moored barge."

Notice of Intended Action was published in the July 7, 2004, Iowa Administrative Bulletin as **ARC 3449B**. A public hearing was held on July 27, 2004. No comments were received. Other portions of **ARC 3449B** were Adopted and Filed and published in the September 29, 2004, Iowa Administrative Bulletin as **ARC 3679B**. This amendment, the definition of "moored barge," has been clarified from the one published under Notice of Intended Action.

This amendment will become effective December 15, 2004.

This amendment is intended to implement Iowa Code chapter 99F.

The following amendment is adopted.

Amend subrule **5.6(1)** by adding the following new paragraph:

c. Moored barge. "Barge" means any man-made stationary structure approved by the commission, where the entire gaming floor is at all times located on or within a body of water as defined under Iowa Code section 99F.7, subsection 1, as amended by 2004 Iowa Acts, House File 2302, section 41, and which facility is subject to land-based building codes rather than maritime or Iowa department of natural resources inspection laws and regulations.

[Filed 10/15/04, effective 12/15/04]

[Published 11/10/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/10/04.

ARC 3804B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14, 452A.59, 453A.25(2), and 453A.49, the Department of Revenue hereby adopts amendments to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Chapter 68, "Motor Fuel and Undyed Special Fuel," Chapter 81, "Administration," and Chapter 82, "Cigarette Tax," Iowa Administrative Code.

These amendments increase the penalty for the violation of being in possession of more than 2,000 unstamped cigarettes; clarify that a refund of tax paid on fuel used in the extraction and processing of natural deposits is allowable if used in motor vehicles, whether registered or not registered; provide a definition for "counterfeit cigarettes"; increase the statute of limitations for the department to examine taxpayer records from two to three years; lengthen the time taxpayers are required to maintain records from two to three years; expand the time banks are required to maintain records of cigarette stamp transactions from two to three years; and make numerous changes to clean up outdated cigarette and tobacco tax penalty language.

The amendments incorporate the provisions of 2004 Iowa Acts, Senate File 2296.

Notice of Intended Action was published in IAB Vol. XXVII, No. 6, p. 403, on September 15, 2004, as **ARC 3673B**.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 15, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 421.27 and 452A.17(8) and Iowa Code chapter 453A as amended by 2004 Iowa Acts, Senate File 2296.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [10.1(1), 10.5, 10.76 to 10.79, 68.8(8), 81.1, 81.3, 81.4, 82.6(5)] is being omitted. These amend-

REVENUE DEPARTMENT[701](cont'd)

ments are identical to those published under Notice as **ARC 3673B**, IAB 9/15/04.

[Filed 10/22/04, effective 12/15/04]
[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3803B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, "Determination of Net Income," Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVII, No. 6, p. 406, on September 15, 2004, as **ARC 3671B**.

Item 1 amends subrule 40.53(4) to provide that deductions for contributions made by individual income taxpayers to the endowment fund of the Iowa educational savings plan trust must be for contributions made before April 15, 2004, since the endowment fund was eliminated as of April 15, 2004.

Item 2 amends rule 701—40.58(422) to reflect a Code Editor's change to "state military service."

Item 3 amends rule 701—42.12(422) to provide for a franchise tax credit for individual income tax for members of a financial institution organized as a limited liability company that is taxed as a partnership for federal income tax purposes.

Item 4 amends subrule 42.15(3) and the implementation clause for rule 701—42.15(422) to clarify what costs may be considered in computing the property rehabilitation tax credit for individual income taxpayers.

Item 5 amends subrule 52.18(3) and the implementation clause for rule 701—52.18(422) to clarify what costs may be considered in computing the property rehabilitation tax credit for corporation income taxpayers. This amendment is similar to the amendment in Item 4.

Item 6 amends rule 701—53.21(422) to provide that deductions for contributions made by corporation income taxpayers to the endowment fund of the Iowa educational savings plan trust must be for contributions made before April 15, 2004, since the endowment fund was eliminated as of April 15, 2004. This amendment is similar to the amendment in Item 1.

Item 7 amends rule 701—58.7(422) to clarify that the allocation of franchise tax revenues to cities and counties applies only for fiscal years prior to July 1, 2004.

Item 8 amends rule 701—59.21(422) to clarify that a financial institution organized as a limited liability company that is taxed as a partnership for federal income tax purposes must compute its Iowa franchise tax as if the financial institution was subject to federal corporation income tax.

Item 9 amends rule 701—59.22(422) to provide that deductions for contributions made by franchise taxpayers to the endowment fund of the Iowa educational savings plan trust must be for contributions made before April 15, 2004, since

the endowment fund was eliminated as of April 15, 2004. This amendment is similar to the amendments in Items 1 and 6.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 15, 2004, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement the repeal of Iowa Code section 422.65 by 2003 Iowa Acts, Senate File 453; Iowa Code section 422.7 as amended by 2004 Iowa Acts, House File 2208; Iowa Code section 12D.4 as amended by 2004 Iowa Acts, House File 2553; Iowa Code section 404A.2 as amended by 2004 Iowa Acts, Senate File 2298, section 250; and Iowa Code section 422.11 as amended by 2004 Iowa Acts, House File 2484.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [40.53(4), 40.58, 42.12, 42.15(3), 52.18(3), 53.21, 58.7, 59.21, 59.22] is being omitted. These amendments are identical to those published under Notice as **ARC 3671B**, IAB 9/15/04.

[Filed 10/22/04, effective 12/15/04]
[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3780B

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of 2004 Iowa Acts, Senate File 2298, section 311, Iowa Code section 47.1 and the Help America Vote Act (HAVA), Public Law 107-252, the Secretary of State hereby adopts new Chapter 27, "Help America Vote Act Grants," Iowa Administrative Code.

This chapter contains procedures for distributing HAVA grant funds to Iowa counties.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3635B**, and the rules were simultaneously Adopted and Filed Emergency as **ARC 3636B**. No comments were received from the public. There are no changes from the Notice.

These rules are intended to implement 2004 Iowa Acts, Senate File 2298, Iowa Code section 47.1 and the Help America Vote Act, Public Law 107-252.

These rules will become effective on December 15, 2004, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 27] is being omitted. These rules are identical to those published under Notice as **ARC 3635B** and Adopted and Filed Emergency as **ARC 3636B**, IAB 9/15/04.

[Filed 10/21/04, effective 12/15/04]
[Published 11/10/04]

[For replacement pages for IAC, see IAC Supplement 11/10/04.]

ARC 3782B
WORKERS' COMPENSATION
DIVISION[876]

Adopted and Filed

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 4, "Contested Cases," Iowa Administrative Code.

These amendments modify the existing rules regarding contested case proceedings.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 15, 2004, as **ARC 3658B**. Written comments were solicited until October 5, 2004.

One nonsubstantive change was made from the Notice. An item was added to amend paragraph 4.19(3)"a" to correct

the telephone number of the hearing administrator. The corrected telephone number is (515)281-6621.

These amendments will become effective January 1, 2005.

These amendments are intended to implement Iowa Code sections 17A.12, 17A.15, 17A.16 and 86.24.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [4.19(3)"a," 4.25, 4.27, 4.28] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 3658B**, IAB 9/15/04.

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[For replacement pages for IAC, see IAC Supplement 11/10/04.]

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